

# **Marine Renewable-energy Act**

CHAPTER 32 OF THE ACTS OF 2015

*as amended by*

2017, c. 12; 2019, c. 34; 2022, c. 19 (except s. 9(6))



© 2022 Her Majesty the Queen in right of the Province of Nova Scotia  
Published by Authority of the Speaker of the House of Assembly  
Halifax

This page is intentionally blank.

CHAPTER 32 OF THE ACTS OF 2015  
amended 2017, c. 12; 2019, c. 34; 2022, c. 19 (except s. 9(6))

**An Act Respecting  
the Generation of Electricity  
from Marine Renewable-energy Resources**

**Table of Contents**

(The table of contents is not part of the statute)

	Section
Short title.....	1
Purpose.....	2
Interpretation.....	3
Annapolis Tidal Station.....	4
<b>Minister’s Duties and Powers</b>	
Conflict with Electricity Act.....	4A
Duties.....	5
Advisors.....	6
Delegation of powers and duties.....	7
Transfer of administration.....	8
Agreements.....	9
<b>Areas of Marine Renewable-energy Priority</b>	
Establishment.....	10
Deposit of plan.....	11
Prohibition without licence or permit.....	12
<b>Marine Renewable-electricity Areas</b>	
FORCE Marine Renewable-electricity Area.....	13
Digby Gut Marine Renewable-electricity Area.....	14
Grand Passage Marine Renewable-electricity Area.....	15
Petit Passage Marine Renewable-electricity Area.....	16
Establishment or alteration of new marine renewable-electricity area.....	17
Public consultation.....	18
Public consultation process.....	19
Requirements for establishment or material modification.....	20
Geographic restriction.....	21
Deposit of plan.....	22
Review of establishment.....	23
Prohibition on interconnection.....	24
<b>Licences and Permits</b>	
When person may apply for licence.....	25
Call for applications.....	26
Delegation to Procurement Administrator.....	26A
Where authority to issue call for application delegated.....	27
Decision to issue licence.....	28
Licence.....	29
Issuance of licence to holder of feed-in tariff approval.....	30
Terms and conditions of licence.....	31
Additional lease, licence or authorization not required.....	32
Deposit of plan.....	33
Notification of public re licensing process.....	34

Application for permit .....	35
Permit.....	36
Issuance of permit to Fundy Ocean Research Centre for Energy Ltd. ....	37
Terms and conditions of permit .....	38
Performance targets under demonstration permit .....	38A
Additional lease, licence or authorization not required .....	39
Deposit of plan.....	40
Notification of public re permitting process .....	41
Extension or renewal of licence or permit .....	42
Security and insurance .....	43
Decommissioning and site rehabilitation.....	44
Disposition of licence or permit .....	45
Change to licence or permit.....	46
Certificate of variance.....	47
Suspension or revocation of licence or permit .....	48
Revocation for failure to supply information .....	49
<b>Power Purchase Agreements</b>	
Power purchase agreement for generators under demonstration permits .....	49A
Power purchase agreement for generators under feed-in tariff approvals .....	49B
<b>Consultation With Other Government Departments and Agencies</b>	
When Minister may consult.....	50
Disclosure of information or data .....	51
Concerns expressed re application.....	52
<b>Collection, Use and Disclosure of Data and Information</b>	
Collection of data by holder of licence or permit .....	53
Disclosure of data or information .....	54
Confidentiality or non-disclosure agreement.....	55
Disclosure by Minister.....	56
Restriction on disclosure by Minister .....	57
<b>Ministerial Orders and Administrative Penalties</b>	
Issuance of order.....	58
Recovery of costs.....	59
Administrative penalty.....	59A
Service of order.....	60
Compliance with order .....	61
Amendment or revocation of order.....	62
Enforceability of order.....	62A
<b>General</b>	
Fees, rents and royalties.....	63
Minister's decisions not reviewable .....	64
No action lies .....	65
<b>Offences</b>	
Offences and penalties .....	66
Offence by corporation .....	66A
Conditions imposed by court.....	67
Limitation period for prosecution.....	68
<b>Regulations</b>	
Regulations re statutory marine renewable-electricity area.....	69
Regulations establishing marine renewable-electricity area.....	70
Governor in Council regulations .....	71

Regulations re fees .....	72
Consequential Amendments and Effective Date	
Fisheries and Coastal Resources Act amended .....	73
Freedom of Information and Protection of Privacy Act amended.....	74
Effective date.....	75
Schedule A - Bras D'Or Area of Marine Renewable-energy Priority	
Schedule B - Fundy Area of Marine Renewable-energy Priority	
Schedule C - FORCE Marine Renewable-electricity Area	
Schedule D - Digby Gut Marine Renewable-electricity Area	
Schedule E - Grand Passage Marine Renewable-electricity Area	
Schedule F - Petit Passage Marine Renewable-electricity Area	

### Short title

**1** This Act may be cited as the *Marine Renewable-energy Act*. 2015, c. 32, s. 1.

### Purpose

**2** The purpose of this Act is to provide for the responsible, efficient and effective development of marine renewable-energy resources through

- (a) a regulatory system that
  - (i) is staged, collaborative, consultative and adaptive, and
  - (ii) integrates technical, environmental and socio-economic factors; and
- (b) programs and initiatives that promote the sustainable growth and management of the marine renewable-energy sector in the Province. 2015, c. 32, s. 2.

### Interpretation

- 3 (1)** In this Act,
- (a) “application window” means a period of time, as prescribed by the regulations or as determined by the Minister, for receiving applications for demonstration permits under clause 35(1)(c);
  - (aa) “area of marine renewable-energy priority” means an area established by or under Section 10 as an area of marine renewable-energy priority;
  - (b) “baseline data” means data, collected in relation to the licence area of a licence or the permit area of a permit, respecting the conditions within the area before the installation within the area of a generator authorized to be installed under the licence or permit;
  - (ba) “business day” means a day other than a Saturday or a holiday as defined in the *Interpretation Act*;

(bb) “calendar day” means any day, including a Saturday or a holiday as defined in the *Interpretation Act*;

(c) “call for applications” means a call issued under subsection 26(1) for applications for licences;

(d) “connected generator” means a generator

(i) used to produce marine renewable electricity for use or consumption onshore, or

(ii) prescribed by the regulations as being a connected generator,

but excludes any generator prescribed by the regulations as not being a connected generator;

(da) “demonstration permit” means a permit to undertake the activity referred to in clause 36(1)(c);

(e) “Director” means the Director of Surveys appointed under the *Crown Lands Act*;

(f) “environmental effects monitoring data” means data, collected in relation to a generator, respecting the effect of the generator on, and the interaction of the generator with, the marine environment;

(g) “environmental monitoring plan” means an environmental monitoring plan required to be submitted to the Minister for approval under clause 31(2)(a) or 38(2)(a);

(h) “generator” means any device or technology, or any collectively operated arrangement of devices or technologies,

(i) used to produce marine renewable electricity for use or consumption onshore, or

(ii) being tested for the purpose of assessing its potential or capability for producing marine renewable electricity,

but excludes any structure or anchor used to maintain the device or technology in place, and excludes any device or technology prescribed by the regulations as not being a generator;

(i) “government agency” means

(i) a person who is an agent of the Government, or

(ii) an agency, commission, board or other body, some or all of whose members are appointed by an Act of the Legislature, the Governor in Council or a member of the Executive Council, or any combination thereof;

(j) “in-stream tidal-energy converter” means a device used to convert the kinetic energy of a tidal stream into electricity;

- (k) “licence” means a licence issued under subsection 29(1) or 30(1);
- (l) “licence area” means the area specified in a licence under subsection 29(1) or 30(1);
- (m) “marine renewable energy” means the energy available from marine renewable-energy resources;
- (n) “marine renewable-energy resources” means
- (i) ocean waves, tides and currents and winds blowing over marine waters, and
  - (ii) any other source prescribed by the regulations;
- (o) “marine renewable electricity” means electricity produced from marine renewable energy but, in respect of electricity produced from winds blowing over marine waters, includes only electricity produced from a marine wind turbine;
- (p) “marine renewable-electricity area” means an area established by this Act or the regulations as a marine renewable-electricity area;
- (q) “marine wind turbine” means a wind turbine affixed to the sea bed or situated on a platform that is completely surrounded by marine waters;
- (r) “Minister” means the Minister of Natural Resources and Renewables;
- (s) “nameplate capacity” means the maximum rated output of a generator under the conditions specified by the manufacturer of the generator;
- (t) “order” means an order issued under subsection 58(1) or (3), 59(1) or 59A(1);
- (u) “permit” means a permit issued under subsection 36(1) or 37(1);
- (v) “permit area” means the area specified in a permit under subsection 36(2) or 37(2);
- (va) “Procurement Administrator” means a person appointed under subsection 4B(1) of the *Electricity Act*;
- (w) “Record Centre” means the Crown Land Information Management Centre or such other land-record facility as is maintained under the *Crown Lands Act* by the Registrar;
- (x) “Registrar” means the Registrar of Crown Lands appointed under the *Crown Lands Act*;
- (y) “statutory marine renewable-electricity area” means a marine renewable-electricity area established by Section 13, 14, 15 or 16;

(z) “unconnected generator” means a generator that is not a connected generator.

(2) The regulations establishing a marine renewable-electricity area are materially modified if the regulations are amended to

(a) alter the boundaries of the marine renewable-electricity area to include any area that, immediately before the alteration, was not included within the boundaries;

(b) add to the types of connected generators specified in the regulations that may be licensed to operate within the marine renewable-electricity area; or

(c) increase the limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the marine renewable-electricity area. 2015, c. 32, s. 3; 2017, c. 12, s. 1; 2022, c. 19, s. 1.

#### **Annapolis Tidal Station**

4 This Act does not apply to the generation of marine renewable electricity at the Annapolis Tidal Station unless the Station is modified with the result that its nameplate capacity exceeds 20 megawatts. 2015, c. 32, s. 4.

### MINISTER’S DUTIES AND POWERS

#### **Conflict with Electricity Act**

4A Where there is a conflict between

(a) the provisions of this Act respecting calls for applications and the regulations respecting calls for applications; and

(b) Section 4B of the *Electricity Act* and the regulations made under that Section,

the provisions of this Act respecting calls for applications and the regulations respecting calls for applications prevail. 2017, c. 12, s. 2.

#### **Duties**

5 (1) The Minister is responsible for the general supervision and management of this Act.

(2) The Minister shall

(a) promote the sustainable development of marine renewable-energy resources;

(b) establish and administer policies, programs, guidelines, objectives and licensing and permitting processes pertaining to the development and management of marine renewable-energy resources;



(c) establish programs and mechanisms for providing access to information respecting the development and management of marine renewable-energy resources;

(d) consult with and co-ordinate activities with other departments, government agencies, municipalities, governments and other persons;

(e) establish criteria to be applied by a person to whom responsibility is delegated under this Act when making any decision under this Act or the regulations;

(f) promote and support research and development respecting marine renewable-energy resources, including the development of resources for the voluntary public sharing of information relating to research activities; and

(g) measure and analyze the socio-economic and environmental effects of marine renewable-energy activities and develop programs to enhance any benefits and mitigate any concerns associated with these activities. 2015, c. 32, s. 5.

#### **Advisors**

**6** (1) The Minister may appoint any person, establish advisory committees and retain experts to advise the Minister with respect to

(a) the content and administration of this Act;

(b) any policy, program or other matter under the administration of the Minister under this Act; or

(c) any other matter referred by the Minister to the person, advisory committee or expert, as the case may be.

(2) Where the Minister appoints a person, establishes an advisory committee or retains an expert under subsection (1), the Minister may provide for the remuneration of and payment of reasonable expenses to the person, the members of the advisory committee established or the expert. 2015, c. 32, s. 6.

#### **Delegation of powers and duties**

**7** (1) The Minister may, in writing, delegate to

(a) any employee of the Government or a government agency;

(b) any employee of the Government of Canada or an agency of that government;

(c) any employee of a municipality; or

(d) any other person,

who, in the Minister's opinion, has the requisite qualifications and experience, any power or duty conferred or imposed on the Minister under this Act.

(2) Where the Minister delegates a power or duty under subsection (1), the Minister may

(a) prescribe how the power or duty is to be exercised or performed and impose any requirements in relation to or restrictions on the exercise or performance of the power or duty that the Minister considers appropriate; and

(b) provide that the delegate be paid for, or reimbursed for the cost of, exercising or performing the delegated power or duty.

(3) Before making a delegation to a person under subsection (1), the Minister shall consult with and obtain the consent of the person and, where applicable, the employer of the person.

(4) The Minister may revoke a delegation made under subsection (1). 2015, c. 32, s. 7.

#### **Transfer of administration**

8 (1) The Minister may, with the approval of the Governor in Council, transfer the administration of a provision of this Act to

(a) another minister of the Government or a government agency;

(b) an agency of the Government of Canada;

(c) a municipality; or

(d) any other person,

and may specify the terms and conditions under which and subject to which the transfer is made.

(2) Where the Minister transfers the administration of a provision of this Act under subsection (1), the Minister may

(a) prescribe how the provision is to be administered and impose any requirements in relation to or restrictions on the administration of the provision that the Minister considers appropriate; and

(b) provide that the transferee be paid for, or reimbursed for the cost of, administering the transferred provision.

(3) The Minister may, with the approval of the Governor in Council, revoke a transfer of administration made under subsection (1). 2015, c. 32, s. 8.

#### **Agreements**

9 The Minister may, on behalf of Her Majesty in right of the Province, enter into an agreement with the Government of Canada, the government of a province of Canada, the government of a foreign country, or a state thereof, or an agency of any of the foregoing, or with a municipality or any person, for

- (a) the sustainable development and management of marine renewable-energy resources;
- (b) the co-ordination of regulatory activities relating to the development of marine renewable-energy resources;
- (c) the identification and establishment of economic development opportunities relating to marine renewable energy;
- (d) marine renewable-energy research and development; or
- (e) the undertaking and sharing of research and knowledge relating to the development and management of marine renewable-energy resources and to any socio-economic or environmental impacts of marine renewable-energy activities. 2015, c. 32, s. 9.

AREAS OF MARINE  
RENEWABLE-ENERGY PRIORITY

**Establishment**

**10 (1)** The following are hereby established as areas of marine renewable-energy priority:

- (a) the Bras d'Or Area of Marine Renewable-energy Priority, an area described, subject to the regulations, in Schedule A; and
- (b) the Fundy Area of Marine Renewable-energy Priority, an area described, subject to the regulations, in Schedule B.

**(2)** An area of marine renewable-energy priority may be established by the regulations upon the report and recommendation of the Minister. 2015, c. 32, s. 10; 2022, c. 19, s. 2.

**Deposit of plan**

**11 (1)** Where an area of marine renewable-energy priority is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the boundaries of the area of marine renewable-energy priority.

**(2)** Where the boundaries of an area of marine renewable-energy priority are altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered boundaries of the area of marine renewable-energy priority, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 11.

**Prohibition without licence or permit**

**12 (1)** Except in accordance with a licence or permit, no person shall construct, install or operate within an area of marine renewable-energy priority

- (a) a generator; or

(b) a cable, an anchor or any other equipment or structure used or intended to be used with a generator.

(2) Notwithstanding subsection (1), a contractor or subcontractor of the holder of a licence or permit may, in accordance with the licence or permit, construct, install or operate within an area of marine renewable-energy priority

(a) a generator; or

(b) a cable, an anchor or any other equipment or structure used or intended to be used with a generator.

(3) Where a contractor or subcontractor of the holder of a licence or permit constructs, installs or operates within an area of marine renewable-energy priority

(a) a generator; or

(b) a cable, an anchor or any other equipment or structure used or intended to be used with a generator,

the holder of the licence or permit shall ensure that the contractor or subcontractor is advised of and adheres to any terms or conditions in the licence or permit that relate to the work of the contractor or subcontractor. 2015, c. 32, s. 12; 2022, c. 19, s. 3.

#### MARINE RENEWABLE-ELECTRICITY AREAS

##### **FORCE Marine Renewable-electricity Area**

**13 (1)** Subject to subsection (4), the FORCE Marine Renewable-electricity Area, an area described in Schedule C, is hereby established as a marine renewable-electricity area.

(2) Subject to subsection (4), the only type of connected generator that may be licensed to operate within the FORCE Marine Renewable-electricity Area is an in-stream tidal-energy converter.

(3) Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the FORCE Marine Renewable-electricity Area is 64 megawatts.

(4) The regulations may disestablish the FORCE Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the FORCE Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the FORCE Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the FORCE Marine Renewable-electricity Area.

(5) Subsection 17(2) applies to the making of regulations respecting the FORCE Marine Renewable-electricity Area in the same manner as it applies to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 18 to 20 apply *mutatis mutandis*.

(6) Notwithstanding clause 3(2)(a), the alteration by regulation of the boundaries of, or the prescription by regulation of different boundaries for, the area that constitutes the FORCE Marine Renewable-electricity Area is deemed not to be a material modification if the alteration of the boundaries or the prescription of new boundaries is necessary to accommodate the existence of submarine cables in existence at the time this Section comes into force. 2015, c. 32, s. 13.

#### **Digby Gut Marine Renewable-electricity Area**

**14 (1)** Subject to subsection (4), the Digby Gut Marine Renewable-electricity Area, an area described in Schedule D, is hereby established as a marine renewable-electricity area.

(2) Subject to subsection (4), the only type of connected generator that may be licensed to operate within the Digby Gut Marine Renewable-electricity Area is an in-stream tidal-energy converter.

(3) Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Digby Gut Marine Renewable-electricity Area is 1,999 kilowatts.

(4) The regulations may disestablish the Digby Gut Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the Digby Gut Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the Digby Gut Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Digby Gut Marine Renewable-electricity Area.

(5) Subsection 17(2) applies to the making of regulations respecting the Digby Gut Marine Renewable-electricity Area in the same manner as it applies to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 18 to 20 apply *mutatis mutandis*. 2015, c. 32, s. 14.

**Grand Passage Marine Renewable-electricity Area**

**15 (1)** Subject to subsection (4), the Grand Passage Marine Renewable-electricity Area, an area described in Schedule E, is hereby established as a marine renewable-electricity area.

**(2)** Subject to subsection (4), the only type of connected generator that may be licensed to operate within the Grand Passage Marine Renewable-electricity Area is an in-stream tidal-energy converter.

**(3)** Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Grand Passage Marine Renewable-electricity Area is 1,999 kilowatts.

**(4)** The regulations may disestablish the Grand Passage Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the Grand Passage Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the Grand Passage Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Grand Passage Marine Renewable-electricity Area.

**(5)** Subsection 17(2) applies to the making of regulations respecting the Grand Passage Marine Renewable-electricity Area in the same manner as it applies to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 18 to 20 apply *mutatis mutandis*. 2015, c. 32, s. 15.

**Petit Passage Marine Renewable-electricity Area**

**16 (1)** Subject to subsection (4), the Petit Passage Marine Renewable-electricity Area, an area described in Schedule F, is hereby established as a marine renewable-electricity area.

**(2)** Subject to subsection (4), the only type of connected generator that may be licensed to operate within the Petit Passage Marine Renewable-electricity Area is an in-stream tidal-energy converter.

**(3)** Subject to subsection (4), the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Petit Passage Marine Renewable-electricity Area is 1,999 kilowatts.

**(4)** The regulations may disestablish the Petit Passage Marine Renewable-electricity Area or may

(a) alter the boundaries of, or prescribe different boundaries for, the area that constitutes the Petit Passage Marine Renewable-electricity Area;

(b) specify any type of connected generator that, in addition to an in-stream tidal-energy converter, may be licensed to operate within the Petit Passage Marine Renewable-electricity Area; and

(c) vary the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the Petit Passage Marine Renewable-electricity Area.

(5) Subsection 17(2) applies to the making of regulations respecting the Petit Passage Marine Renewable-electricity Area in the same manner as it applies to the amendment or revocation of regulations establishing a marine renewable-electricity area and Sections 18 to 20 apply *mutatis mutandis*. 2015, c. 32, s. 16.

#### **Establishment or alteration of new marine renewable-electricity area**

17 (1) Subject to Sections 18, 20 and 21, the Minister may report and recommend to the Governor in Council that an area within an area of marine renewable-energy priority be established by the regulations as a marine renewable-electricity area.

(2) Subject to Sections 18, 20 and 21, the Minister may report and recommend to the Governor in Council that the regulations establishing a marine renewable-electricity area be amended or revoked unless

(a) the intended amendment would alter the boundaries of the marine renewable-electricity area such that any part of the licence area of a licence, that has been issued in respect of the marine renewable-electricity area and has not expired or been revoked, would be outside of the amended boundaries; or

(b) the intended revocation would disestablish a marine renewable-electricity area in respect of which a licence has been issued and has not expired or been revoked. 2015, c. 32, s. 17; 2022, c. 19, s. 4.

#### **Public consultation**

18 (1) Before a marine renewable-electricity area may be established or the regulations establishing a marine renewable-electricity area may be materially modified, the Minister shall, in respect of the establishment or the material modification,

(a) in consultation with the Minister of Fisheries and Aquaculture, establish a public consultation process that complies with Section 19; and

(b) conduct a public consultation in accordance with the process established under clause (a).

(2) Before the regulations establishing a marine renewable-electricity area may be amended, other than by being materially modified, the Minister may, in respect of the amendment,

(a) in consultation with the Minister of Fisheries and Aquaculture, establish a public consultation process that complies with Section 19; and

(b) conduct a public consultation in accordance with the process established under clause (a). 2015, c. 32, s. 18; 2022, c. 19, s. 5.

#### **Public consultation process**

**19 (1)** The Minister shall, at the time and in the manner prescribed by the regulations, issue a notice to the public containing the details of a public consultation process established under Section 18.

(2) A notice issued under subsection (1) must include

(a) where the public consultation is in respect of a proposal to establish a marine renewable-electricity area, the proposed boundaries of the marine renewable-electricity area, including a plan or chart displaying the proposed marine renewable-electricity area;

(b) where the public consultation is in respect of a proposal to amend the regulations establishing a marine renewable-electricity area, which proposed amendment alters the boundaries of the marine renewable-electricity area, the proposed altered boundaries of the marine renewable-electricity area, including a plan or chart displaying the marine renewable-electricity area as altered;

(c) where the public consultation is in respect of a proposal to amend the regulations establishing a marine renewable-electricity area, which proposed amendment does not alter the boundaries of the marine renewable-electricity area, the existing boundaries of the marine renewable-electricity area, including a plan or chart displaying the marine renewable-electricity area as it exists;

(d) an explanation of how to obtain information on the proposal to establish a marine renewable-electricity area or to amend the regulations establishing a marine renewable-electricity area;

(e) an explanation of how to provide input to the Minister for the purpose of the Minister's decision whether to recommend the establishment of a marine renewable-electricity area or the amendment of the regulations establishing a marine renewable-electricity area;

(f) any periods within which information may be accessed or input provided under the public consultation process;

(g) any dates established for any specific events that are to take place as part of the public consultation process; and



(h) any other information that the Minister considers necessary or advisable or that is prescribed by the regulations.

(3) Before consulting with the public, the Minister shall prepare and release to the public a report that includes a summary of baseline information on the resource potential of, and any socio-economic or environmental factors associated with, the proposed or existing marine renewable-electricity area that is the subject of the public consultation process.

(4) After consulting with the public, the Minister shall prepare and release to the public a report summarizing the information obtained when consulting with the public and including the following information:

(a) the information described by clause (2)(a), (b) or (c), as applicable, modified, to the extent the Minister considers necessary or advisable, as a result of the public consultation;

(b) the types of connected generators that it is proposed may be licensed in the proposed or existing marine renewable-electricity area, including whether the generators are to be floating, surface-piercing or completely sub-surface structures;

(c) the proposed limit of the aggregate nameplate capacity of the connected generators that may be constructed, installed and operated in the proposed or existing marine renewable-electricity area;

(d) any significant impacts that the proposed establishment of a marine renewable-electricity area or amendment of the regulations establishing a marine renewable-electricity area, and the installation, construction and operation of generators within the marine renewable-electricity area, are reasonably expected to have on activities being undertaken or that may be undertaken in the marine renewable-electricity area; and

(e) any other information that the Minister considers necessary or advisable or that is prescribed by the regulations.

(5) After releasing a report under subsection (4), the Minister shall provide the public with an opportunity to comment on the report.

(6) For greater certainty,

(a) a public consultation process established in compliance with this Section may include any requirements that the Minister considers necessary or advisable in addition to those prescribed by this Section; and

(b) different public consultation processes may be established in respect of

(i) different areas of marine renewable-energy priority, and

(ii) different proposed or existing marine renewable-electricity areas. 2015, c. 32, s. 19; 2022, c. 19, s. 6.

**Requirements for establishment or material modification**

**20 (1)** Before a marine renewable-electricity area may be established or the regulations establishing a marine renewable-electricity area may be materially modified, the Minister shall

(a) conduct or cause to be conducted a strategic environmental assessment in respect of the proposed marine renewable-electricity area and the activities to be allowed in the proposed marine renewable-electricity area;

(b) determine whether, in respect of the proposed marine renewable-electricity area,

(i) there are in existence any rights or interests granted or issued to any person under the authority of the *Crown Lands Act*, the *Beaches Act* or the *Beaches and Fore-shores Act*, or

(ii) any sub-aquatic lands have been set aside under Section 24 of the *Crown Lands Act*;

(c) consult with the Minister of Fisheries and Aquaculture to determine whether, in respect of the proposed marine renewable-electricity area, there are in existence

(i) any aquaculture leases or other leases entered into,

(ii) any aquaculture licences or other licences, permits or authorizations issued, or

(iii) any sub-aquatic lands designated as aquaculture development areas,

under the *Fisheries and Coastal Resources Act*; and

(d) satisfy any other requirement and follow any other procedure or process prescribed by the regulations.

**(2)** Before January 1, 2024, clause (1)(a) does not apply if

(a) a strategic environmental-assessment document respecting the proposed marine renewable-electricity area is in existence at the time this Act comes into force; and

(b) the document is identified by the regulations.

**(3)** A strategic environmental assessment of a proposed marine renewable-electricity area required under clause (1)(a) must be

(a) conducted in accordance with any requirements prescribed by the regulations; and

(b) completed within such period before the establishment of the marine renewable-electricity area as is prescribed by the regulations. 2015, c. 32, s. 20; 2022, c. 19, s. 7.

### Geographic restriction

**21** A marine renewable-electricity area may not comprise any area in respect of which

(a) there are in existence any rights or interests granted or issued to any person under the authority of the *Crown Lands Act*, the *Beaches Act* or the *Beaches and Foreshores Act*;

(b) any sub-aquatic lands have been set aside under Section 24 of the *Crown Lands Act*; or

(c) there are in existence

(i) any aquaculture leases or other leases entered into,

(ii) any aquaculture licences or other licences, permits or authorizations issued, or

(iii) any sub-aquatic lands designated as an aquaculture development area,

under the *Fisheries and Coastal Resources Act*. 2015, c. 32, s. 21.

### Deposit of plan

**22 (1)** Where a marine renewable-electricity area is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the boundaries of the marine renewable-electricity area.

**(2)** Where the boundaries of a marine renewable-electricity area are altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered boundaries of the marine renewable-electricity area, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 22.

### Review of establishment

**23 (1)** Within 20 years of the establishment of a marine renewable-electricity area, the Minister shall review the decision to establish the marine renewable-electricity area to ensure that its establishment continues to meet the objectives of this Act and that any impact of its establishment on the conduct of other activities in the marine renewable-electricity area is, in the Minister's opinion, minimal.

**(2)** In reviewing the decision to establish the marine renewable-electricity area, the Minister

(a) shall ensure the decision considers the impact of the establishment of the marine renewable-electricity area on the conduct

of other activities in the marine renewable-electricity area when determining whether its establishment continues to meet the objectives of this Act; and

(b) may consult with the public and may adapt and apply the requirements of Section 19 for that purpose. 2015, c. 32, s. 23; 2022, c. 19, s. 8.

#### **Prohibition on interconnection**

**24 (1)** No person shall interconnect a generator situated in marine waters outside of a marine renewable-electricity area with

- (a) the electrical grid of a public utility in the Province; or
- (b) an onshore electricity consumer in the Province.

**(2)** Subsection (1) does not apply to the interconnection of a generator in accordance with a demonstration permit.

**(3)** Where a demonstration permit issued in respect of a connected generator expires or is revoked and no new licence or permit is issued in respect of the generator, the person who held the permit immediately before it expired or was revoked shall forthwith disconnect the generator from all of the following to which it is connected:

- (a) the electrical grid of a public utility in the Province;
- (b) an onshore electricity consumer in the Province. 2015, c. 32, s. 24; 2017, c. 12, s. 3.

### LICENCES AND PERMITS

#### **When person may apply for licence**

**25** A person may only apply for a licence in response to and in accordance with a call for applications. 2015, c. 32, s. 25.

#### **Call for applications**

**26 (1)** The Minister may issue a call for applications.

**(2)** The area to which a call for applications relates must be within a marine renewable-electricity area.

**(3)** A call for applications must be consistent with

- (a) the regulations establishing the marine renewable-electricity area to which the call for applications relates;
- (b) any terms, conditions or requirements specified by the Minister that, in the Minister's opinion,
  - (i) support the achievement of the public-policy goals and objectives of the Government, and

- (ii) are consistent with any policies, plans and strategies of the Government relating to the development of marine renewable-energy resources; and
- (c) any requirements for a call for applications prescribed by the regulations. 2015, c. 32, s. 26.

**Delegation to Procurement Administrator**

**26A** ~~(1)~~ Where, under subsection 7(1), the Minister delegates the authority to issue a call for applications to a Procurement Administrator,

- (a) the Procurement Administrator may establish one process for both the call for applications and the procurement; and
- (b) for the purpose of fixing fees and expenses under subsection 4B(3) of the *Electricity Act*, the functions and duties referred to in that subsection include the functions and duties of the Procurement Administrator in conducting the call for applications. 2017, c. 12, s. 4.

**Where authority to issue call for applications delegated**

**27** **(1)** Where, under subsection 7(1), the Minister delegates the authority to issue a call for applications but not the authority to issue a licence, the person to whom the authority to issue a call for applications is delegated shall

- (a) report to the Minister on the call for applications process;
- (b) recommend whether the Minister issue any licences; and
- (c) where the person recommends that the Minister issue one or more licences, recommend to whom the Minister issue each licence.

**(2)** For greater certainty, the Minister is not bound by a recommendation made under clause (1)(b) or (c).

**(3)** Where the person to whom the authority to issue a call for applications but not the authority to issue a licence is delegated is a Procurement Administrator, the Procurement Administrator

- (a) may not award a contract for the procurement of marine renewable electricity to a bidder unless the bidder is issued a licence by the Minister; and
- (b) shall award a contract for the procurement of marine renewable electricity to any bidder who is issued a licence by the Minister. 2015, c. 32, s. 27; 2017, c. 12, s. 5.

**Decision to issue licence**

**28** The Minister shall decide whether to issue any licence and, where the Minister decides to issue one or more licences, to whom each licence is to be issued, no later than six months after the close of a call for applications. 2015, c. 32, s. 28.

**Licence**

**29 (1)** The Minister may, after the close of a call for applications, issue to an applicant a licence to, within the area specified by the licence, construct, install and operate one or more connected generators, including any cable or other equipment or structure owned by the licence holder and used or intended to be used with the generators.

**(2)** The licence area of a licence issued after a call for applications must be within the area in relation to which the call for applications was issued. 2015, c. 32, s. 29; 2017, c. 12, s. 6.

**Issuance of licence to holder of feed-in tariff approval**

**30 (1)** The Minister may issue to the holder of a feed-in tariff approval issued under Section 28 of the *Renewable Electricity Regulations* a licence to, within the area specified by the licence, construct, install and operate a connected generator, if the approval was issued

- (a) before the coming into force of this Act; and
- (b) in respect of an electricity-generation facility situated or to be situated within a statutory marine renewable-electricity area.

**(2)** In addition to any other term or condition prescribed under Section 31, the Minister may require the holder of a licence issued under subsection (1) to neither be in breach of nor let expire

- (a) any agreement with Her Majesty in right of the Province entered into before the coming into force of this Act respecting the electricity-generation facility;
- (b) any lease or sub-lease, licence, easement, approval, permit or authorization entered into or issued before the coming into force of this Act in respect of Crown lands upon which the electricity-generation facility is or is to be situated; and
- (c) the feed-in tariff approval. 2015, c. 32, s. 30.

**Terms and conditions of licence**

**31 (1)** A licence is subject to any terms and conditions

- (a) prescribed by the Minister upon the issuance of the licence, including terms and conditions
  - (i) respecting the period during which the licence remains valid,

- (ii) establishing performance or other requirements that must be satisfied by the licence holder within a specific period,
  - (iii) requiring the licence holder to produce reports and data in relation to the activities to be carried on under the licence and specifying the timing, format and content of such productions,
  - (iv) restricting the technology that may be used in relation to the activities to be carried on under the licence,
  - (v) limiting
    - (A) the nameplate capacity of or the amount of electricity to be produced by a generator operating under the licence, or
    - (B) the aggregate nameplate capacity of, or the aggregate amount of electricity to be produced by, all of the generators operating under the licence, and
  - (vi) requiring the development of and adherence to plans relating to the activities to be carried on under the licence, including plans relating to public consultation and engagement, environmental protection, research, monitoring, risk-management, generator decommissioning and site restoration;
- (b) prescribed by the Minister upon the issuance of the licence or at any time thereafter
- (i) requiring the licence holder to collect baseline data and environmental effects data and specifying the baseline data and environmental effects data to be collected, and
  - (ii) requiring the licence holder to disclose to the Minister the baseline data and environmental effects data and reports in relation thereto and specifying the timing, format and content of such disclosures and reports; and
- (c) prescribed by the regulations.
- (2)** It is a condition of every licence that the licence holder shall
- (a) not install any connected generator, including any cable or any other equipment or structure owned by the licence holder and used or intended to be used with the generator, before submitting an environmental monitoring plan to the Minister and obtaining the Minister's approval of the environmental monitoring plan; and
  - (b) comply with the requirements prescribed by the environmental monitoring plan. 2015, c. 32, s. 31.

**Additional lease, licence or authorization not required**

**32** Notwithstanding the *Crown Lands Act*, the *Beaches Act* and the *Beaches and Foreshores Act*, a licence holder is not required to enter into any lease or obtain any licence or other authorization under that Act in respect of any activity authorized by the licence and undertaken within the licence area. 2015, c. 32, s. 32.

**Deposit of plan**

**33 (1)** When the licence area of a licence is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the licence area and a copy of the licence.

**(2)** Where the licence area of a licence is altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered licence area, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 33.

**Notification of public re licensing process**

**34** The Minister shall, in the form and manner prescribed by the regulations, notify the public about the licensing process, including

- (a) the issuance of a call for applications;
- (b) upon the closing of a call for applications, the identity of the applicants who responded to the call for applications; and
- (c) upon the issuance of a licence,
  - (i) the identity and address of the licence holder,
  - (ii) the licence area, and
  - (iii) any performance or other requirements that must be satisfied by the licence holder within a specific period. 2015, c. 32, s. 34.

**Application for permit**

- 35 (1)** A person may apply to the Minister for a permit to
- (a) construct, install and operate an unconnected generator, including any cable or other equipment or structure owned by the permit holder and used or intended to be used with the generator;
  - (b) construct, install and operate any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with a generator; or
  - (c) construct, install and operate one or more connected generators, including any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with the generators, to demonstrate to the Minister the generators' potential or capacity to produce marine renewable electricity.



(2) An application for a permit must be made in the manner and contain the information specified in this Act or prescribed by the regulations.

(3) The Minister may require an applicant for a permit to provide any additional information the Minister considers necessary.

(4) Where the Minister considers an application for a permit to be incomplete,

(a) the application must not be processed until the applicant provides the information required to complete the application;

(b) the Minister shall, within 90 business days of receiving the application, advise the applicant in writing that the application is incomplete and that the application requires additional information to be completed;

(c) where the Minister advises the applicant in writing that the application is incomplete, the Minister may, no sooner than 90 business days after so advising the applicant, reject the application if it has not been completed; and

(d) any application for a demonstration permit made under clause (1)(c) must be submitted prior to the close of the application window.

(5) Where an application under clause (1)(c) is incomplete, the Minister shall reject the application and notify the applicant of the rejection within 30 business days of the close of the application window.

(5A) Subject to subsection (5C), where an application for a permit under clause (1)(a) or (b) is received, the Minister shall, within 90 business days, approve or deny the application unless there are exceptional circumstances, as prescribed in the regulations.

(5B) Subject to subsection (5C), where an application for a permit under clause (1)(c) is received, the Minister shall, within 90 business days after the close of the application window, approve or deny the application unless there are exceptional circumstances, as prescribed in the regulations.

(5C) Where exceptional circumstances exist, the Minister may extend the period of time to approve or deny an application in accordance with the regulations.

(6) *repealed 2022, c. 19, s. 9.*

(7) The Minister may not approve an application for a demonstration permit unless

(a) the generator is to be located wholly or partially within an area of marine renewable-energy priority;

(b) the aggregate nameplate capacity of all of the generators operating under the demonstration permit will not exceed five megawatts;

(c) the issuance of the demonstration permit will not result in the aggregate nameplate capacity of all generators operating in accordance with demonstration permits exceeding 10 megawatts; and

(d) the Minister is satisfied that the issuance of the demonstration permit is in the public interest, having taken into account

(i) the nature of the generator,

(ii) the extent to which the generator

(A) differs from other generators in respect of which licences or permits have been issued under this Act, and

(B) is based on an innovative technology or design,

(iii) the extent to which the approval of the permit

(A) supports the achievement of the public-policy goals and objectives of the Government, and

(B) is consistent with any policies, plans or strategies of the Government respecting the development of marine renewable-energy resources,

(iv) any effect on electricity rates in the Province and ratepayers,

(v) any risk to public safety or the environment, and

(vi) any other factors the Minister considers relevant.

**(8)** The Minister may issue zero or one or more than one demonstration permits after an application window closes.

**(9)** The Minister may, with respect to an application window,

(a) establish an application window, including specifying opening and closing dates, notice requirements and public consultation requirements, if any;

(b) establish eligibility requirements for applicants;

(c) establish a rate cap, specify allowed technology and maximum capacity for each generator and specify the maximum available megawatts;

(d) identify the geographic area to which the application window relates; and

(e) make regulations respecting any item or thing mentioned in clauses (a) to (d).

**(10)** The exercise by the Minister of the authority contained in clause (9)(e) is a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 35; 2017, c. 12, s. 7; 2022, c. 19, s. 9.

### Permit

**36 (1)** The Minister may, upon approving an application, issue to the applicant a permit to

(a) construct, install and operate an unconnected generator, including any cable or other equipment or structure owned by the permit holder and used or intended to be used with the generator;

(b) construct, install and operate any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with a generator; or

(c) construct, install and operate one or more connected generators, including any cable, anchor or other equipment or structure owned by the permit holder and used or intended to be used with the generators, to demonstrate to the Minister the generators' potential or capacity to produce marine renewable electricity.

**(2)** The exercise by a permit holder of the authority to undertake any activity referred to in subsection (1) shall be restricted to the area specified in the permit. 2015, c. 32, s. 36; 2017, c. 12, s. 8; 2022, c. 19, s. 10.

### Issuance of permit to Fundy Ocean Research Centre for Energy Ltd.

**37 (1)** The Minister may, without any application being made, issue a permit to the Fundy Ocean Research Centre for Energy Limited in respect of any cable or other equipment or structure that is used or intended to be used with a generator and that

(a) is situated within the FORCE Marine Renewable-Electricity[electricity] Area; and

(b) was constructed or installed before the coming into force of this Act.

**(2)** The exercise by the holder of a permit issued under subsection (1) of the authority to undertake any activity referred to in that subsection may be restricted to an area specified by the permit.

**(3)** In addition to any other term or condition prescribed under Section 38, the Minister may require Fundy Ocean Research Centre for Energy Limited to neither be in breach of nor let expire

(a) any agreement with Her Majesty in right of the Province entered into before the coming into force of this Act respecting

any cable or other equipment or structure used or intended to be used with a generator situated within the Fundy Area of Marine Renewable-energy Priority; and

(b) any lease or sub-lease, licence, easement, approval, permit or authorization entered into or issued before the coming into force of this Act in respect of Crown lands situated within the FORCE Marine Renewable-electricity Area. 2015, c. 32, s. 37.

### Terms and conditions of permit

**38 (1)** A permit is subject to any terms and conditions

(a) prescribed by the Minister upon the issuance of the permit, including terms and conditions

(i) respecting the period during which the permit remains valid,

(ii) establishing performance or other requirements that must be satisfied by the permit holder within a specific period,

(iii) requiring the permit holder to produce reports and data in relation to the activities to be carried on under the permit and specifying the timing, format and content of such productions,

(iv) restricting the technology that may be used in relation to the activities to be carried on under the permit,

(iva) in the case of a demonstration permit, limiting

(A) the nameplate capacity of or the amount of electricity to be produced by a generator operating under the permit, or

(B) the aggregate nameplate capacity of, or the aggregate amount of electricity to be produced by, all of the generators operating under the permit, and

(v) requiring the development of and adherence to plans relating to the activities to be carried on under the permit, including plans relating to public consultation and engagement, environmental protection, research, monitoring, risk-management, generator decommissioning and site restoration;

(b) prescribed by the Minister upon the issuance of the permit or at any time thereafter

(i) requiring the permit holder to collect baseline data and environmental effects data and specifying the baseline data and environmental effects data to be collected, and

- (ii) requiring the permit holder to disclose to the Minister the baseline data and environmental effects data and reports in relation thereto and specifying the timing, format and content of such disclosures and reports; and
  - (c) prescribed by the regulations.
- (2) It is a condition of every permit to undertake an activity referred to in clause 36(1)(a) or (c) that the permit holder shall
  - (a) not install any generator, including any cable, anchor or any other equipment or structure owned by the permit holder and used or intended to be used with the generator, before submitting an environmental monitoring plan to the Minister and obtaining the Minister's approval of the environmental monitoring plan; and
  - (b) comply with the requirements prescribed by the environmental monitoring plan.
- (3) The term of a demonstration permit may not exceed five years. 2015, c. 32, s. 38; 2017, c. 12, s. 9; 2022, c. 19, s. 11.

**Performance targets under demonstration permit**

**38A** When issuing or renewing a demonstration permit, the Minister shall establish performance targets for every generator to be constructed, installed or operated under the demonstration permit. 2017, c. 12, s. 10.

**Additional lease, licence or authorization not required**

**39** Notwithstanding the *Crown Lands Act*, the *Beaches Act* and the *Beaches and Foreshores Act*, a permit holder is not required to enter into any lease or obtain any licence or other authorization under that Act in respect of any activity authorized by the permit within an area of marine renewable-energy priority. 2015, c. 32, s. 39; 2017, c. 12, s. 11.

**Deposit of plan**

**40 (1)** When the permit area of a permit is established, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the permit area and a copy of the permit.

**(2)** Where the permit area of a permit is altered, the Registrar shall deposit in the Record Centre a plan signed by the Director showing the altered permit area, in substitution for the previous plan deposited under this subsection or subsection (1). 2015, c. 32, s. 40; 2017, c. 12, s. 12.

**Notification of public re permitting process**

**41** The Minister shall, in the form and manner prescribed by the regulations, notify the public about the permitting process including, upon the issuance a permit,

- (a) the identity and address of the permit holder;
- (b) the permit area; and
- (c) any performance or other requirements that must be satisfied by the permit holder within a specific period. 2015, c. 32, s. 41; 2017, c. 12, s. 13.

#### **Extension or renewal of licence or permit**

**42 (1)** Subject to this Section, the Minister may extend or renew a licence or permit.

**(1A)** A demonstration permit may not be extended.

**(1B)** A demonstration permit may be renewed for one or more terms not exceeding five years each.

**(1C)** The aggregate of the initial term of a demonstration permit and any renewals of the demonstration permit may not exceed 18 years.

**(2)** The process and requirements for extending or renewing a licence or permit may be prescribed by the regulations. 2015, c. 32, s. 42; 2017, c. 12, s. 14.

#### **Security and insurance**

**43 (1)** A licence holder or permit holder shall, in respect of the activity authorized by the licence or permit, provide financial or other security or carry insurance, or do both, as may be required by the Minister.

**(2)** The Minister may determine the manner in which, and the conditions under which, any security that is provided under subsection (1) may be forfeited or returned, in whole or in part.

**(3)** Subsection (1) does not apply to the Government or a government agency. 2015, c. 32, s. 43; 2017, c. 12, s. 15.

#### **Decommissioning and site rehabilitation**

**44 (1)** A licence holder or permit holder shall, upon the completion of the activity authorized by the licence or permit, undertake any steps prescribed by the regulations or the terms or conditions of the licence or permit to

(a) decommission any generator, cable, anchor or other equipment or structure that was operated under the authority of the licence or permit; and

(b) rehabilitate any sub-aquatic lands that compose the licence area or permit area.

**(2)** Where required to do so by the regulations, a licence holder or permit holder shall, in accordance with the regulations, in respect of the activity authorized by the licence or permit,

(a) provide the Minister with a decommissioning, abandonment and rehabilitation plan; and

(b) obtain the Minister's approval of the decommissioning, abandonment and rehabilitation plan.

(3) The Minister may approve the decommissioning, abandonment and rehabilitation plan, subject to any terms or conditions that the Minister considers appropriate. 2015, c. 32, s. 44; 2022, c. 19, s. 12.

#### **Disposition of licence or permit**

**45 (1)** No person may transfer, sell, lease, assign or otherwise dispose of a licence or permit without the written consent of the Minister.

(2) The Minister may impose any terms or conditions that the Minister considers appropriate in respect of a transfer, sale, lease, assignment or other disposition of a licence or permit.

(3) Where a person requests that the Minister consent to a transfer, sale, lease, assignment or other disposition of a licence or permit, the Minister shall provide a decision in writing within 60 business days of receipt of the request. 2015, c. 32, s. 45; 2022, c. 19, s. 13.

#### **Change to licence or permit**

**46 (1)** The Minister may only amend a term or condition of, add a term or condition to or delete a term or condition from a licence or permit

(a) upon the request of the licence holder or permit holder, as the case may be, if the Minister considers it appropriate to do so;

(b) if an adverse effect or an unacceptable environmental effect, as defined in the *Environment Act*, has occurred or may occur;

(c) if the term or condition relates to a monitoring or reporting requirement; or

(d) to correct a typographical error.

(2) The Minister shall give notice in writing, together with reasons, to the licence holder or permit holder at least 30 business days in advance of making an amendment under clauses (1)(b) to (d). 2022, c. 19, s. 14.

#### **Certificate of variance**

**47 (1)** The holder of a licence or permit may apply to the Minister for a certificate of variance to vary a term or condition of the licence or permit or a requirement of the regulations.

(2) The Minister may issue a certificate of variance and may

(a) impose any term or condition that the Minister considers appropriate in respect of the certificate; or

(b) amend a term or condition of, add a term or condition to, or delete a term or condition from, a certificate.

(3) *repealed 2022, c. 19, s. 15.*

(4) A certificate of variance is in effect only during the period specified by the Minister and, notwithstanding anything in this Act or the regulations, during that period the terms and conditions of the licence or permit or the requirements of the regulations that are not varied by the certificate continue to apply.

(5) While a certificate of variation is in effect in respect of a term or condition of a licence or permit or a requirement of the regulations,

(a) the term or condition; or

(b) the requirement, as it applies to an activity authorized to be carried on under the licence or permit,

is deemed to be varied in accordance with the certificate. 2015, c. 32, s. 47; 2022, c. 19, s. 15.

#### **Suspension or revocation of licence or permit**

**48** (1) The Minister may suspend or revoke a licence or permit

(a) for contravention of

(i) this Act or the regulations,

(ii) the licence or permit, or

(iii) an order;

(b) if, in the course of applying for the licence or permit, the applicant

(i) supplied information to the Minister that was false or misleading, or

(ii) failed to supply information that the applicant might reasonably have been expected to supply,

and the Minister determines that, had the correct information been supplied, the licence or permit would have either been refused or issued on different terms and conditions; or

(c) if the licence or permit is no longer required under this Act or the regulations.

(2) Where the Minister suspends or revokes a licence or permit under subsection (1), the Minister shall forthwith give notice in writing, together with reasons, of the suspension or revocation to the holder of the licence or permit. 2015, c. 32, s. 48.



**Revocation for failure to supply information**

**49** Where a licence or permit is revoked because, in the course of applying for the licence or permit, the applicant failed to supply information that the applicant might reasonably have been expected to supply, the Minister may issue a new licence or permit on different terms and conditions. 2015, c. 32, s. 49.

## POWER PURCHASE AGREEMENTS

**Power purchase agreement for generators under demonstration permits**

**49A (1)** Where a demonstration permit is issued in respect of a generator, the permit holder and the public utility that owns the electrical grid to which the generator is to be interconnected are deemed to have entered a power purchase agreement in the form prescribed under subsection (2).

**(2)** When issuing a demonstration permit, the Minister shall prescribe the form of the power purchase agreement applicable in respect of the permit holder and the public utility referred to in subsection (1).

**(3)** The term of the power purchase agreement ends on the earlier of

(a) the date on which the demonstration permit expires or is revoked; and

(b) 15 years after the commercial operation date, as defined in the agreement, of the generator.

**(4)** The public utility shall procure all electricity under the power purchase agreement at a price to be determined by the Minister and set out in the demonstration permit.

**(5)** The holder of the demonstration permit and the public utility may, by mutual consent, amend the power purchase agreement and, where they do so, shall provide a copy of the amended agreement to the Minister.

**(6)** The Nova Scotia Utility and Review Board shall allow a public utility to recover the costs in connection with any power purchase agreement the public utility is deemed to have entered under subsection (1) through the public utility's rates approved by the Board under the *Public Utilities Act*. 2017, c. 12, s. 16.

**Power purchase agreement for generators under feed-in tariff approvals**

**49B (1)** Where a licence is, or has been, issued under subsection 30(1) in respect of a generator, the licence holder and the public utility that owns the electrical grid to which the generator is to be interconnected are deemed to have entered into one or more power purchase agreements, as determined by the Minister, in the form prescribed under subsection (2).

(2) The Minister shall prescribe the form of the power purchase agreement or agreements, as the case may be, applicable in respect of the licence holder and the public utility referred to in subsection (1).

(3) The aggregate nameplate capacity allowable under the cumulative power purchase agreements deemed to be entered into by a licence holder under subsection (1) must not exceed the aggregate nameplate capacity assigned under all of the licence holder's feed-in tariff approvals issued under Section 28 of the *Renewable Electricity Regulations*.

(4) The public utility shall procure all electricity under the power purchase agreement or agreements, as the case may be, at a price to be determined by the Minister and set out in the agreement or agreements.

(5) Subject to subsection (7), the licence holder and the public utility may, by mutual consent, amend the power purchase agreement or agreements, as the case may be, and, where they do so, shall provide a copy of the amended agreement or agreements to the Minister.

(6) The Nova Scotia Utility and Review Board shall allow a public utility to recover the costs in connection with any power purchase agreement the public utility is deemed to have entered into under subsection (1) through the public utility's rates approved by the Board under the *Public Utilities Act*.

(7) The term of a power purchase agreement referred to in subsection (1) ends 15 years after the commercial operation date, as defined in the agreement, of the generator and may not be extended.

(8) No power purchase agreement may be entered into pursuant to this Section on and after December 31, 2021. 2019, c. 34, s. 2.

#### CONSULTATION WITH OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

##### **When Minister may consult**

**50** (1) When establishing or reviewing a marine renewable-electricity area, the Minister may consult with any department of the public service of the Province or of Canada, government agency or agency of the Government of Canada, that exercises regulatory authority over any aspect of the activities to be carried on in the marine renewable-electricity area.

(2) When considering an application for a licence or permit, the Minister may consult with any department of the public service of the Province or of Canada, government agency or agency of the Government of Canada, that exercises regulatory authority over any aspect of the activities to be carried on under the licence or permit. 2015, c. 32, s. 50.

**Disclosure of information or data**

**51 (1)** In this Section and clauses 71(1)(p) and (r), “personal information” has the same meaning as in the *Freedom of Information and Protection of Privacy Act*.

**(2)** The Minister may, in accordance with the regulations, disclose any information, including personal information,

- (a) contained in an application for a licence or permit;
- (b) disclosed to the Minister as required by a term or condition of a licence or permit; or
- (c) disclosed to the Minister as required by an order,

to any department of the public service of the Province or of Canada, government agency or agency of the Government of Canada, that exercises regulatory authority over any aspect of the activities to be carried on under the licence or permit.

**(3)** The Minister may, in accordance with the regulations, disclose any environmental effects monitoring data or baseline data

- (a) disclosed to the Minister as required by a term or condition of a licence or permit; or
- (b) disclosed to the Minister as required by an order,

to the Department of Environment and Climate Change, the Department of the Environment (Canada) or the Department of Fisheries and Oceans (Canada).

**(4)** A department of the public service of the Province or a government agency to which information, including personal information, or data is disclosed under subsection (2) or (3) may, in accordance with any requirements prescribed by the regulations, collect, use and disclose the information or data. 2015, c. 32, s. 51; 2022, c. 19, s. 16.

**Concerns expressed re application**

**52 (1)** The Minister shall, in respect of an application for a licence or permit, take into account any concerns expressed about the application by a department of the public service of the Province or of Canada, a government agency or an agency of the Government of Canada, when deciding whether to approve or deny the application and when prescribing any terms or conditions of the licence or permit.

**(2)** Before taking into account any concerns expressed about an application by a department of the public service of the Province or of Canada, a government agency or an agency of the Government of Canada, the Minister shall

- (a) inform the applicant of the concerns expressed; and
- (b) provide the applicant with an opportunity to respond to the concerns expressed. 2015, c. 32, s. 52.

COLLECTION, USE AND DISCLOSURE  
OF DATA AND INFORMATION

**Collection of data by holder of licence or permit**

**53 (1)** The holder of a licence or permit shall, in accordance with the regulations, collect data about the activities that the holder of the licence or permit is authorized to carry on under the licence or permit.

**(2)** The holder and any former holder of a licence or permit shall, in accordance with the regulations, maintain a record of any data about the activities that the holder or former holder of the licence or permit is or was, as the case may be, authorized to carry on under the licence or permit. 2015, c. 32, s. 53.

**Disclosure of data or information**

**54 (1)** Subject to subsection 55(3), the holder or any former holder of a licence or permit shall, upon and in accordance with a direction by the Minister to do so, disclose to a person, for research purposes, any data or information about the activities that the holder or former holder is or was, as the case may be, authorized to carry on under the licence or permit.

**(2)** Subject to subsection 55(3), where the licence area of the licence once held by a former licence holder coincides partially or entirely with the licence area of a licence held by a current licence holder, the former licence holder shall, upon and in accordance with a direction by the Minister to do so, disclose to the current licence holder any data or information about the activities that the former licence holder was authorized to carry on under the licence of the former licence holder. 2015, c. 32, s. 54.

**Confidentiality or non-disclosure agreement**

**55 (1)** Within 10 calendar days of receiving a direction from the Minister under Section 54, or within such further time as the Minister allows, the holder or former holder of the licence or permit may request that the person to whom data or information is to be disclosed under Section 54 execute a confidentiality or non-disclosure agreement and provide to the Minister a copy of the agreement for the Minister's approval.

**(2)** The Minister may approve a confidentiality or non-disclosure agreement provided to the Minister under subsection (1) and, before doing so, may make any amendments to the agreement that the Minister considers necessary or advisable.

**(3)** Where the Minister has approved a confidentiality or non-disclosure agreement under subsection (2), the person to whom data or information is to be disclosed under Section 56 is not entitled to the disclosure until the person executes the agreement. 2015, c. 32, s. 55; 2022, c. 19, s. 17.

**Disclosure by Minister**

**56 (1)** Where the holder or former holder of a licence or permit fails to disclose data or information in accordance with Section 54,

(a) the Minister may disclose to the person to whom data or information is to be disclosed; and

(b) the person to whom data or information is to be disclosed may collect and use,

any data or information in the Minister's possession about the activities that the holder or former holder is or was, as the case may be, authorized to carry on under the licence or permit.

**(2)** No action lies against Her Majesty in right of the Province, the Minister, the person to whom any data or information is disclosed under subsection (1) or any agent, servant or employee of Her Majesty in right of the Province or the person to whom data or information is disclosed under subsection (1) in respect of the collection, use and disclosure of the data or information. 2015, c. 32, s. 56.

**Restriction on disclosure by Minister**

**57** Notwithstanding anything in this Act, the Minister may not disclose, in respect of a generator,

(a) any data relating to when and how much electricity is produced by the generator; or

(b) any other data or information prescribed by the regulations,

without the written consent of the holder of the licence or permit under which the generator is operated. 2015, c. 32, s. 57.

MINISTERIAL ORDERS  
AND ADMINISTRATIVE PENALTIES

**Issuance of order**

**58 (1)** The Minister may, regardless of whether a person has contravened this Act or the regulations or has been charged or convicted in respect of any contravention of this Act or the regulations, issue an order requiring a person, at the person's own expense, to

(a) where the Minister believes on reasonable and probable grounds that the person has contravened or will contravene this Act or the regulations, cease or take any action in respect of the person's contravention or anticipated contravention of this Act and the regulations;

(b) where the Minister believes on reasonable and probable grounds that the person has contravened or will contravene a term or condition of a licence or permit, cease or take any action in respect of the person's contravention or anticipated contravention of the term or condition; or

(c) where the Minister believes that an emergency exists or is imminent in respect of a matter authorized or governed by this Act or the regulations, cease or take any action necessary to abate or prevent the emergency.

(2) An order issued under subsection (1) may

(a) require a person, at the person's own expense, to

(i) maintain records on any relevant matter and report periodically to the Minister or a person specified by the Minister,

(ii) hire an expert to prepare a report for submission to the Minister or a person specified by the Minister,

(iii) submit to the Minister or a person specified by the Minister, in accordance with the order, any information, proposal or plan setting out any action to be taken by the person with respect to the subject-matter of the order,

(iv) prepare and submit a contingency plan,

(v) undertake any test, investigation, survey or other action specified by the Minister and report the results to the Minister, or

(vi) take any other measure that the Minister considers necessary to facilitate compliance with the order;

(b) fix the manner or method of, or the procedures to be used in, carrying out any measure required by the order; and

(c) fix the time within which any measure required by the order is to be commenced and the time within which the order or any portion of the order is to be complied with.

(3) Where the Minister believes on reasonable and probable grounds that a person has contravened or will contravene this Act, the regulations or a term or condition of a licence or permit, the Minister may issue an order

(a) prohibiting a public utility from interconnecting a generator, line, plant, equipment or work owned or operated by the person to any line, plant, equipment or work of the public utility; or

(b) directing a public utility to disconnect a generator, line, plant, equipment or work owned or operated by the person from any line, plant, equipment or work of the public utility.

(4) The reasonable costs incurred by a public utility when complying with an order issued under subsection (3) are a debt due to the public utility by the person who owns or operates the generator, line, plant, equipment or work that is the subject of the order.

(5) An order issued under subsection (1) or (3) is not a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 58.

#### Recovery of costs

**59 (1)** Any reasonable costs, expenses or charges incurred by the Minister when investigating and responding to

- (a) any matter to which an order issued under subsection 58(1) or (3) relates; or
- (b) the failure to comply with an order issued under subsection 58(1) or (3),

are recoverable by order of the Minister against the person to whom the order issued under subsection 58(1) or (3) was directed.

(2) and (3) *repealed 2017, c. 12, s. 18.*

(4) An order issued under subsection (1) is not a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 59; 2017, c. 12, s. 18.

#### Administrative penalty

**59A (1)** Where the Minister determines that a person has contravened this Act or the regulations, a term or condition of a licence or permit, or an order issued under subsection 58(1), the Minister may, in accordance with the regulations, issue an order requiring the person to pay an administrative penalty.

(2) The purpose of an administrative penalty is to promote compliance with

- (a) this Act and the regulations;
- (b) the terms and conditions of licences and permits; and
- (c) orders issued under subsection 58(1).

(3) An order issued under subsection (1) is not a regulation within the meaning of the *Regulations Act*. 2017, c. 12, s. 19.

#### Service of order

**60 (1)** An order issued by the Minister under subsection 58(1) or (3), 59(1) or 59A(1) must be served in accordance with subsection (2).

(2) An order is served

- (a) upon a copy being personally served on the person to whom it is directed;
- (b) upon a copy being sent, by electronic mail, facsimile or other electronic means, to the person to whom it is directed and an acknowledgement of receipt being received; or

(c) five [calendar] days after a copy is sent by mail addressed to the person to whom it is directed at the last address for that person known to the Minister, if any.

(3) Where the person to be served is a corporation, service on a director, officer or recognized agent of the corporation in accordance with subsection (2), or service in accordance with the *Corporations Registration Act*, is deemed to be service on the corporation for the purpose of subsection (1).

(4) Where it is impractical for any reason to serve a document in the manner prescribed by subsection (2) or (3), an *ex parte* application may be made to a judge of the Supreme Court of Nova Scotia, who may make an order for substituted service providing for the steps to be taken to bring the matter to the attention of the person to be served. 2015, c. 32, s. 60; 2017, c. 12, s. 20; 2022, c. 19, s. 18.

#### **Compliance with order**

**61 (1)** Where an order is served on a person to whom it is directed, the person shall comply with the order forthwith or, where a period for compliance is specified in the order, within the period specified.

(2) Where the person to whom an order is directed does not comply with the order or any part thereof, the Minister may take whatever action the Minister considers necessary to carry out the terms of the order. 2015, c. 32, s. 61.

#### **Amendment or revocation of order**

**62 (1)** The Minister may, by order,

- (a) amend a term or condition of, add a term or condition to, or delete a term or condition from, an order;
- (b) revoke an order; or
- (c) amend a typographical error in an order.

(2) A copy of an order issued pursuant to subsection (1) must be served in accordance with Section 60 on the person to whom the original order was directed. 2015, c. 32, s. 62; 2017, c. 12, s. 21.

#### **Enforceability of order**

**62A (1)** An order issued under subsection 59(1) or 59A(1) may be filed with the Supreme Court of Nova Scotia in accordance with the *Nova Scotia Civil Procedure Rules* and, upon being filed, is enforceable in the same manner as a judgment of that Court.

(2) An amendment to or revocation of an order filed with the Supreme Court of Nova Scotia under subsection (1) may be filed with that Court in accordance with the *Nova Scotia Civil Procedure Rules* and, upon being filed,



(a) in the case of an amendment, the order as amended is enforceable in the same manner as a judgment of that Court; or

(b) in the case of a revocation, the order ceases to be enforceable. 2017, c. 12, s. 22.

#### GENERAL

##### **Fees, rents and royalties**

**63** A licence holder or permit holder is liable for and shall pay any fees, rents or royalties prescribed by the regulations in respect of the licence or permit or the use of any Crown lands or marine renewable-energy resources under the licence or permit. 2017, c. 12, s. 23.

##### **Minister's decisions not reviewable**

**64** A decision of the Minister under this Act or the regulations is final and may not be questioned or reviewed in any court or tribunal. 2015, c. 32, s. 64.

##### **No action lies**

**65** No action lies against

(a) Her Majesty in right of the Province or an agent, servant or employee thereof;

(b) the Minister;

(c) any person appointed or expert retained under Section 6 to advise the Minister or any person appointed to an advisory committee established under Section 6 to advise the Minister;

(d) any person to whom the Minister has, under subsection 7(1), delegated a power or duty conferred or imposed on the Minister under this Act, or the employer of the person; or

(e) any minister of the Government, government agency, agency of the Government of Canada, municipality or other person to whom the Minister has, under subsection 8(1), transferred the administration and control of a provision of this Act, or any agent, servant or employee thereof,

if the action arises out of any act or omission of the person that occurs while the person is carrying out duties or exercising powers under this Act or the regulations in good faith. 2015, c. 32, s. 65.

#### OFFENCES

##### **Offences and penalties**

**66 (1)** A person who contravenes

(a) this Act or the regulations;

- (b) a term or condition of a licence or permit; or
- (c) an order,

is guilty of an offence and liable on summary conviction, in the case of a first offence, to a fine of not more than \$100,000, and, in the case of a second or subsequent offence, to a fine of not more than \$500,000 ~~dollars~~.

(2) In a prosecution of an offence, it is sufficient proof of the offence to establish that the offence was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(3) *repealed 2022, c. 19, s. 19.*

(4) Where an offence is committed or continued on more than one calendar day, the person who committed the offence is liable to be convicted for a separate offence for each calendar day on which the offence is committed or continued.

(5) No person may be convicted of an offence if the person establishes that the person

- (a) exercised all due diligence to prevent the commission of the offence; or
- (b) reasonably and honestly believed in the existence of facts that, if true, would have rendered the conduct of that person innocent. 2015, c. 32, s. 66; 2022, c. 19, s. 19.

#### **Offence by corporation**

**66A** Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted. 2022, c. 19, s. 20.

#### **Conditions imposed by court**

**67 (1)** Where a person is convicted of an offence, in addition to any other punishment that may be imposed under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, make an order requiring the offender to comply with such conditions as the court considers appropriate and just in the circumstances for securing the offender's good conduct and for preventing the offender from repeating the same offence or committing other offences.

(2) An order made under subsection (1) comes into force on the day on which it is made or on such other day as the court may order and may not continue in force for more than three years after that day. 2015, c. 32, s. 67.

**Limitation period for prosecution**

**68** A prosecution of an offence pursuant to this Act may not be commenced more than two years after the later of

- (a) the date on which the offence was committed; and
- (b) the date on which evidence of the offence first came to the attention of the Minister. 2015, c. 32, s. 68.

## REGULATIONS

**Regulations re statutory marine renewable-electricity area**

**69 (1)** On the report and recommendation of the Minister, the Governor in Council may make regulations respecting a statutory marine renewable-electricity area, including regulations

- (a) altering the boundaries of, or prescribing different boundaries for, a statutory marine renewable-electricity area;
  - (b) specifying the types of connected generators that, in addition to an in-stream tidal-energy converter, may be licensed to operate within a statutory marine renewable-electricity area;
  - (c) varying the limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed and operated within a statutory marine renewable-electricity area;
  - (d) restricting the application or operation of an enactment within a statutory marine renewable-electricity area;
  - (e) requiring the approval of the Minister before a licence, permit, approval, authorization or permission may, in respect of a statutory marine renewable-electricity area or an activity to be conducted within a statutory marine renewable-electricity area, be issued under an enactment and respecting any such requirement;
  - (f) subject to subsection (3), imposing conditions or restrictions on, or prohibiting the conduct of, an activity that is occurring or is to occur within a statutory marine renewable-electricity area;
  - (g) respecting the disestablishment of a statutory marine renewable-electricity area;
  - (h) respecting any matter or thing the Governor in Council considers necessary or advisable for the effective administration of a statutory marine renewable-electricity area.
- (2)** Where there is a conflict between a regulation made under clause (1)(d) or (e) and any other enactment, the regulation made under clause (1)(d) or (e) prevails.
- (3)** In respect of the FORCE Marine Renewable-electricity Area, the Governor in Council may only exercise the authority contained in clause (1)(f)

(a) when altering the boundaries of the FORCE Marine Renewable-electricity Area to include any area that, immediately before the alteration, was not included within the boundaries[;]

(b) when adding to the types of connected generators that may be licensed to operate within the FORCE Marine Renewable-electricity Area;

(c) when increasing the limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed or operated within the FORCE Marine Renewable-electricity Area; or

(d) if the Governor in Council considers it necessary for the safety of persons or property.

(4) A regulation made under subsection (1) may be of general application or may apply to such class or classes of statutory marine renewable-electricity areas or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different classes of statutory marine renewable-electricity areas and different classes of matters or things.

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2015, c. 32, s. 69; 2022, c. 19, s. 21.

#### **Regulations establishing marine renewable-electricity area**

**70 (1)** On the report and recommendation of the Minister, the Governor in Council may make regulations establishing a marine renewable-electricity area, including regulations

(a) establishing the boundaries of the marine renewable-electricity area;

(b) specifying the types of connected generators that may be licensed to operate within the marine renewable-electricity area;

(c) establishing a limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed and operated within the marine renewable-electricity area;

(d) restricting the application or operation of an enactment within the marine renewable-electricity area;

(e) requiring the approval of the Minister before a licence, permit, approval, authorization or permission may, in respect of the marine renewable-electricity area or an activity to be conducted within the marine renewable-electricity area, be issued under an enactment and respecting any such requirement;

(f) subject to subsection (4), imposing conditions or restrictions on, or prohibiting the conduct of, an activity that is occurring or is to occur within the marine renewable-electricity area;

(g) respecting any matter or thing the Governor in Council considers necessary or advisable for the effective establishment and administration of the marine renewable-electricity area.

(2) A regulation establishing a marine renewable-electricity area must

(a) establish the boundaries of the marine renewable-electricity area;

(b) specify the types of connected generators that may be licensed to operate within the marine renewable-electricity area; and

(c) establish a limit on the aggregate nameplate capacity of the licensed generators that may be constructed, installed and operated within the marine renewable-electricity area.

(3) Where there is a conflict between a regulation made under clause (1)(d) or (e) and any other enactment, the regulation made under clause (1)(d) or (e) prevails.

(4) The Governor in Council may only exercise the authority contained in clause (1)(f) in respect of a marine renewable-electricity area

(a) when the marine renewable-electricity area is being established or materially modified; or

(b) if the Governor in Council considers it necessary for the safety of persons or property.

(5) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2015, c. 32, s. 70; 2022, c. 19, s. 22.

#### **Governor in Council regulations**

71 (1) The Governor in Council may make regulations

(a) prescribing generators

(i) as being connected generators, or

(ii) as not being connected generators;

(b) prescribing devices or technologies

(i) as being generators, or

(ii) as not being generators;

(c) prescribing sources for the purpose of the definition of “marine renewable-energy resources”;

(d) respecting the timing and manner by which a notice to the public containing the details of a public consultation process must be issued by the Minister;

- (e) prescribing information that is to be included in a notice to the public containing the details of a public consultation process;
- (f) prescribing information that is to be included in a report summarizing the information obtained when consulting with the public in accordance with a public consultation process;
- (g) prescribing the period before the establishment of a marine renewable-electricity area within which a strategic environmental assessment of the proposed marine renewable-electricity area must be completed;
- (h) respecting calls for applications;
- (i) respecting applications for a licence;
- (j) establishing different types of licences and different requirements applicable to each type of licence;
- (k) prescribing terms and conditions of licences;
- (l) respecting the collection of baseline data and environmental effects data and the production of such data and reports in relation thereto in accordance with the terms and conditions of a licence;
- (m) prescribing the form and manner by which the Minister is to notify the public of the licensing process, including the matters referred to in Section 34;
- (n) respecting the extension or renewal of licences;
- (o) *repealed 2017, c. 12, s. 24.*
- (p) respecting the disclosure by the Minister to a department of the public service of the Province or of Canada, a government agency or an agency of the Government of Canada of information, including personal information, under subsection 51(2);
- (q) respecting the disclosure by the Minister to the Department of Environment and Climate Change, the Department of the Environment (Canada) or the Department of Fisheries and Oceans (Canada) of environmental effects monitoring data or baseline data under subsection 51(3);
- (r) respecting the collection, use and disclosure by a department of the public service of the Province or a government agency of information, including personal information, or data under subsection 51(4);
- (s) respecting the collection of data by the holder of a licence about the activities that the holder is authorized to carry on under the licence, including the types of data that are to be collected;

(t) respecting the maintenance of records of data by the holder or former holder of a licence or permit about the activities that the holder is, or former holder was, authorized to carry on under the licence or permit, including the length of time during which the records must be maintained;

(u) prescribing data or information about a generator that the Minister is not allowed to disclose without the written consent of the holder of the licence or permit under which the generator is operated;

(v) respecting the establishment and administration of a system of administrative penalties, including, without limiting the generality of the foregoing,

(i) respecting how administrative penalties may be imposed,

(ii) respecting the content of a notice of administrative penalty or administrative penalty order,

(iii) prescribing the dollar amount of administrative penalties or the manner by which the Minister may determine such an amount,

(iv) providing for increased administrative penalties for repeated contraventions and specifying the period within which a contravention is to be considered a repeat contravention of an earlier contravention,

(v) respecting the payment of administrative penalties,

(vi) respecting the revocation of administrative penalties,

(vii) respecting appeals of administrative penalties,

(viii) prescribing the remedies available on an appeal of an administrative penalty, and

(ix) respecting the use to be made of any funds collected through the imposition of administrative penalties, including where such funds are to be deposited or held;

(va) respecting royalties referred to in Section 63;

(w) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

**(2)** On the report and recommendation of the Minister, the Governor in Council may make regulations

(a) altering or replacing the description of the area that constitutes the Bras d'Or Area of Marine Renewable-energy Priority;

- (b) altering or replacing the description of the area that constitutes the Fundy Area of Marine Renewable-energy Priority;
- (c) respecting areas of marine renewable-energy priority;
- (d) prescribing requirements to be satisfied and procedures and processes to be followed by the Minister before a marine renewable-electricity area may be established;
- (e) identifying strategic environmental assessment documents respecting proposed marine renewable-electricity areas for the purpose of subsection 20(2);
- (f) respecting the conduct of strategic environmental assessments;
- (g) prescribing the manner in which an application for a permit is to be made and the information that an application for a permit is to contain;
- (h) establishing different types of permits and different requirements applicable to each type of permit;
- (i) prescribing terms and conditions of permits;
- (ia) prescribing exceptional circumstances for extending the period for review and decision on permit applications;
- (ib) prescribing how long the Minister may extend the period for review and decision on permit applications;
- (ic) respecting the opening and closing dates of an application window;
- (id) respecting notice provisions and public consultation requirements, if any, for an application window;
- (ie) respecting the eligibility requirements for an application window;
- (if) respecting application criteria for an application window, including setting a geographical area, a rate cap, a project cap and a maximum megawatt cap;
- (j) respecting the collection of baseline data and environmental effects data and the production of such data and reports in relation thereto in accordance with the terms and conditions of a permit;
- (k) prescribing the form and manner by which the Minister is to notify the public of the permitting process, including the matters referred to in Section 41;
- (l) respecting the extension or renewal of permits;
- (m) *repealed 2017, c. 12, s. 24.*



- (n) respecting the steps to be undertaken by a licence holder
  - (i) to decommission a generator that was operated under the authority of the licence, and
  - (ii) to reclaim, restore or rehabilitate any sub-aquatic lands that compose the licence area;
- (o) respecting when a licence holder is required to provide the Minister with a decommissioning, abandonment and reclamation plan and obtain the Minister's approval of such a plan;
- (p) respecting decommissioning, abandonment and reclamation plans to be provided by licence holders;
- (q) respecting the steps to be undertaken by a permit holder
  - (i) to decommission a generator, cable, anchor or other equipment or structure that was operated under the authority of the permit, and
  - (ii) to reclaim, restore or rehabilitate any sub-aquatic lands that compose the permit area;
- (r) respecting when a permit holder is required to provide the Minister with a decommissioning, abandonment and reclamation plan and obtain the Minister's approval of such a plan;
- (s) respecting decommissioning, abandonment and reclamation plans to be provided by permit holders;
- (t) respecting fees or rents referred to in Section 63;
- (u) defining any word or expression used but not defined in this Act;

**(3)** A regulation made under subsection (1) or (2) may be of general application or may apply to such class or classes of licences or permits, such class or classes of licence holders or permit holders or to such class or classes of matters or things as the Governor in Council determines and there may be different regulations with respect to different classes of licences or permits, different classes of licence holders or permit holders and different classes of matters or things.

**(4)** The exercise by the Governor in Council of the authority contained in subsection (1) or (2) is a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 71; 2017, c. 12, s. 24; 2022, c. 19, s. 23.

### **Regulations re fees**

**72 (1)** The Minister may make regulations prescribing fees in relation to anything done or required to be done under this Act or the regulations, and the manner of payment of such fees.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2015, c. 32, s. 72

CONSEQUENTIAL AMENDMENTS  
AND EFFECTIVE DATE

**Fisheries and Coastal Resources Act amended**

73 *amendment*

**Freedom of Information and Protection of Privacy Act amended**

74 *amendment*

**Effective date**

75 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 2015, c. 32, s. 75.

Proclaimed - January 23, 2018  
In force - January 23, 2018

SCHEDULE A

BRAS D'OR AREA OF MARINE  
RENEWABLE-ENERGY PRIORITY

All and singular that certain lot, piece or parcel of land covered by water, lying and being in the vicinity of the Bras d'Or Lake, Province of Nova Scotia, said land being more particularly described as follows:

ALL those lands and lands covered by water known as the Bras d'Or Lake, said land is bounded by the ordinary high-water mark of said lake and three division lines;

BOUNDED on the north by a straight line from the most northerly point on the ordinary high-water mark at Cape Dauphin to the most easterly point on the ordinary high-water mark at Table Head;

BOUNDED on the northeast by a straight line from the most easterly point on the ordinary high-water mark at High Cape to the most northerly point on the ordinary high-water mark at Alder Point;

BOUNDED on the south by a straight line from the most easterly point on the ordinary high-water mark at Pointe du Loup to the most westerly point on the ordinary high-water mark at Jerome Point;

Saving and excepting any private or federal lands or Provincial islands within said parcel of land.

The above-described parcel of land and land covered by water contains approximately 110,900 hectares.

2015, c. 32, Sch. A.

## SCHEDULE B

FUNDY AREA OF MARINE  
RENEWABLE-ENERGY PRIORITY

All and singular that certain lot, piece or parcel of land covered by water, lying and being in the vicinity of the Bay of Fundy, Province of Nova Scotia, said lot being more particularly described as follows:

BEGINNING at the mouth of the Missaguash River;

THENCE southwesterly in a straight line to that point at latitude 45° 49' 39" North and longitude 64° 17' 25" West;

THENCE northwesterly in a straight line to that point at latitude 45° 50' 21" North and longitude 64° 18' 31" West;

THENCE northwesterly in a straight line to that point at latitude 45° 50' 40" North and longitude 64° 19' 15" West;

THENCE southwesterly in a straight line to that point at latitude 45° 50' 36" North and longitude 64° 19' 59" West;

THENCE southwesterly in a straight line to that point at latitude 45° 49' 36" North and longitude 64° 21' 29" West;

THENCE southwesterly in a straight line to that point at latitude 45° 48' 20" North and longitude 64° 23' 41" West;

THENCE southwesterly in a straight line to that point at latitude 45° 47' 36" North and longitude 64° 24' 17" West;

THENCE southwesterly in a straight line to that point at latitude 45° 45' 52" North and longitude 64° 26' 25" West;

THENCE southwesterly in a straight line to that point at latitude 45° 44' 18" North and longitude 64° 27' 57" West;

THENCE southwesterly in a straight line to that point at latitude 45° 42' 44" North and longitude 64° 28' 28" West;

THENCE southwesterly in a straight line to that point at latitude 45° 35' 14" North and longitude 64° 42' 55" West;

THENCE southwesterly in a straight line to that point at latitude 45° 30' 26" North and longitude 64° 56' 25" West;

THENCE southwesterly in a straight line to that point at latitude 45° 29' 09" North and longitude 64° 58' 07" West;

THENCE southwesterly in a straight line to that point at latitude 45° 22' 19" North and longitude 65° 05' 31" West, being approximately the midpoint between Isle Haute (Nova Scotia) and Martin Head (New Brunswick);

THENCE southwesterly in a straight line to that point at latitude 45° 00' 14" North and longitude 65° 43' 36" West, being approximately the midpoint between the west promontory of Parkers Cove (Nova Scotia) and Cape Spencer (New Brunswick);

THENCE southwesterly in a straight line to that point at latitude 44° 50' 16" North and longitude 66° 11' 39" West, being approximately the midpoint between Gullivers Head (Nova Scotia) and Point Lepreau (New Brunswick);

THENCE southwesterly in a straight line towards that point at latitude 44° 26' 09" North and longitude 66° 32' 32" West, to a point at the intersection of longitude 66° 24' 30" West;

THENCE south in a straight line to that point at latitude 44° 13' 00" North and longitude 66° 24' 30" West;

THENCE easterly in a straight line to that point at the intersection of latitude 44° 13' 00" and the ordinary high-water mark of Nova Scotia;

THENCE along the ordinary high-water mark of Nova Scotia excluding fresh watercourses to the PLACE OF BEGINNING.

Saving and excepting any private or federal lands or Provincial islands within said parcel of land.

The above-described parcel of land and land covered by water contains approximately 726,000 hectares.

2015, c. 32, Sch. B.

### SCHEDULE C

#### FORCE MARINE RENEWABLE-ELECTRICITY AREA

All those certain parcels of land covered by water near Black Rock, Cumberland County, Nova Scotia, Parcel "A" and Parcel "B" as shown on "Plan of Survey of Parcels 'A' & 'B' Submerged Crown Land, Minas Channel (Black Rock), Cumberland County, Nova Scotia" bearing field plot No. P-125/16, dated 22 December 2016, prepared by W.B. MacDonald NSLS for Order of Survey S-043/16 filed at the Department of Lands and Forestry Office, Halifax, Nova Scotia, and particularly described as follows:

BEGINNING at a point located South 46° 08' 37" East a distance of 572.525 metres from Nova Scotia coordinate monument number 15028;

THENCE North 61° 45' 00" East a distance of 37 metres more or less to a point at ordinary high water mark as shown on the plan;

THENCE southeasterly along a portion of the shore of Minas Channel at ordinary high water mark a distance of 100 metres more or less to a point;

THENCE South 10° 30' 46" West a distance of 46 metres more or less to a point located South 55° 34' 00" East a distance of 134.544 metres from the point of beginning;

THENCE South 10° 30' 46" West a distance of 309.867 metres to a point;

THENCE South 53° 38' 38" West a distance of 699.837 metres to a point;

THENCE South 87° 26' 14" West a distance of 724.802 metres to a point;

THENCE South 00° 00' 00" West a distance of 100.721 metres to a point;

THENCE North 90° 00' 00" West a distance of 1599.579 metres to a point;

THENCE North 00° 00' 00" West a distance of 999.491 metres to a point;

THENCE South 90° 00' 00" East a distance of 1599.579 metres to a point;

THENCE South 00° 00' 00" West a distance of 87.741 metres to a point;

THENCE North 83° 52' 39" East a distance of 440.788 metres to a point;

THENCE South 75° 55' 11" East a distance of 598.049 metres to a point;

THENCE North 61° 45' 00" East a distance of 243.960 metres to the PLACE OF BEGINNING.

Excepting thereout all that parcel of land and land covered by water, internal to Parcel "B" and shown on the plan as "Crown Land reserved from lease", particularly described as follows:

BEGINNING on the east boundary of Parcel "A" at a point located North 00° 00' 00" East a distance of 157.341 metres from the southwest corner of Parcel "B" as shown on the plan;  
THENCE North 50° 55' 40" East a distance of 400.910 metres to a point;  
THENCE North 77° 15' 17" East a distance of 352.098 metres to a point;  
THENCE South 76° 59' 26" East a distance of 397.796 metres to a point;  
THENCE South 53° 38' 38" West a distance of 348.761 metres to a point;  
THENCE South 87° 26' 14" West a distance of 762.145 metres to the PLACE OF BEGINNING.

The lands so described, comprising Parcels "A" and "B", contain a total area of 232.060 Hectares more or less.

Bearings are referred from the modified transverse mercator grid north, central meridian 64°30' West longitude.

2017, c. 12, s. 25; O.I.C. 2018-188.

#### SCHEDULE D

##### DIGBY GUT MARINE RENEWABLE-ELECTRICITY AREA

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Digby Gut, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point DG1 having a northing of 4950223 metres and an easting of 5399391 metres;

THENCE North 73° 34' 27" East, a distance of 622.40 metres, more or less, to point DG2;

THENCE South 23° 27' 37" East, a distance of 833.94 metres, more or less, to point DG3;

THENCE South 21° 55' 30" West, a distance of 773.98 metres, more or less, to point DG4;

THENCE South 18° 44' 54" East, a distance of 983.17 metres, more or less, to point DG5;

THENCE North 89° 02' 14" West, a distance of 238.03 metres, more or less, to point DG6;

THENCE North 18° 25' 05" West, a distance of 1079.29 metres, more or less, to point DG7;

THENCE North 0° 22' 46" East, a distance of 453.01 metres, more or less, to point DG8;

THENCE North 26° 39' 21" West, a distance of 847.02 metres, more or less, to point DG1 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 96 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

2015, c. 32, Sch. D.

## SCHEDULE E

GRAND PASSAGE MARINE  
RENEWABLE-ELECTRICITY AREA

## Area 1 Description

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Grand Passage, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point GP1 having a northing of 4906642 metres and an easting of 5353140 metres;

THENCE South 88° 42' 28" East, a distance of 399.10 metres, more or less, to point GP2;

THENCE South 26° 26' 39" East, a distance of 424.41 metres, more or less, to point GP3;

THENCE South 24° 14' 47" West, a distance of 840.11 metres, more or less, to point GP4;

THENCE South 83° 03' 12" West, a distance of 438.22 metres, more or less, to point GP5;

THENCE North 12° 20' 50" East, a distance of 650.04 metres, more or less, to point GP6;

THENCE North 5° 17' 04" East, a distance of 575.45 metres, more or less, to point GP1 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 60 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

## Area 2 Description

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Grand Passage, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point GP10 having a northing of 4904860 metres and an easting of 5353043 metres;

THENCE North 64° 15' 12" East, a distance of 469.62 metres, more or less, to point GP7;

THENCE South 6° 23' 40" East, a distance of 583.63 metres, more or less, to point GP8;

THENCE South 68° 17' 40" West, a distance of 332.58 metres, more or less, to point GP9;

THENCE North 19° 44' 02" West, a distance of 530.13 metres, more or less, to point GP10 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 22 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

2015, c. 32, Sch. E.

## SCHEDULE F

### PETIT PASSAGE MARINE RENEWABLE-ELECTRICITY AREA

All and singular that certain lot, piece or parcel of land covered by water situate, lying and being in the vicinity of Petit Passage, in the County of Digby, Province of Nova Scotia, being more particularly described as follows:

BEGINNING at a point PP1 having a northing of 4919384 metres and an easting of 5363587 metres;

THENCE North 77° 36' 44" East, a distance of 396.22 metres, more or less, to point PP2;

THENCE South 13° 19' 42" East, a distance of 785.15 metres, more or less, to point PP3;

THENCE South 12° 21' 19" West, a distance of 214.98 metres, more or less, to point PP4;

THENCE South 01° 12' 28" West, a distance of 332.07 metres, more or less, to point PP5;

THENCE South 10° 47' 03" East, a distance of 277.91 metres, more or less, to point PP6;

THENCE South 02° 39' 20" West, a distance of 539.58 metres, more or less, to point PP7;

THENCE North 69° 33' 09" West, a distance of 432.23 metres, more or less, to point PP8;

THENCE North 17° 26' 15" West, a distance of 163.51 metres, more or less, to point PP9;

THENCE North 14° 40' 04" East, a distance of 154.02 metres, more or less, to point PP10;

THENCE North 22° 09' 35" East, a distance of 296.93 metres, more or less, to point PP11;

THENCE North 03° 37' 59" East, a distance of 315.63 metres, more or less, to point PP12;

THENCE North 14° 42' 13" West, a distance of 1020.42 metres, more or less, to point PP1 and the PLACE OF BEGINNING.

Saving and excepting any and all privately owned land and land under the administration of Canada.

Saving and excepting all leasehold estates, tenements and hereditaments.

Saving and excepting all other rights thereto and interests therein including any estate or right in, over or under the above-described land recognized under law.

Subject to any and all rights and interests including any covenants, claims, privileges, permits or licences as well as subject to any conditions or restrictions imposed by Provincial law.

The above-described lot contains an area of 74 hectares, more or less.

All bearings are grid based on the Nova Scotia 3° Modified Transverse Mercator Projection, Zone 5, Central Meridian 64° 30' West longitude, ATS77 ellipsoid, July 1, 1979 adjustment.

2015, c. 32, Sch. F.