

LEGISLATION OF HALIFAX REGIONAL WATER COMMISSION

Chapter 55 of the Acts of Nova Scotia (1963)

An Act to amend and Consolidate Chapter 47 of the Acts of 1944. An Act to Incorporate Halifax Public Utilities Commission

Amended by Chapter 73 of the Acts of Nova Scotia (1964)
(Assented to March 18, 1964)

Amended by Chapter 88 of the Acts of Nova Scotia (1966)
(Assented to April 6, 1966)

Amended by Chapter 78 of the Acts of Nova Scotia (1973)
(Assented to April 6, 1973)

Amended by Chapter 71 of the Acts of Nova Scotia (1975)
(Assented to March 27, 1975)

Amended by Chapter 54 of the Acts of Nova Scotia (1993)
(Assented to November 25, 1993)

Amended by Chapter 81 of the acts of Nova Scotia (1994)
(Assented to June 30, 1994)

Amended by Chapter 3 of the Acts of Nova Scotia (1995)
(Assented to May 19, 1995)

Amended by Chapter 15 of the Acts of Nova Scotia (1996)
(Assented to May 17, 1996)

Amended by Chapter 13 of the Acts of Nova Scotia (1999)
(Assented to June 17, 1999)

Amended by Chapter 49 of the Acts of Nova Scotia (2004)
(Assented to October 18, 2004)

Be it enacted by the Governor and Assembly as follows:

Short Title

1. This Act may be cited as the

HALIFAX REGIONAL WATER COMMISSION ACT.

Interpretation

2. In this Act:

(a) "Board" means the Nova Scotia Utility and Review Board;

b) "Commission" means the Halifax Regional Water Commission;

(c) "Council" means the Council of the Regional Municipality;

(d) "Regional Municipality" means the Halifax Regional Municipality.

Continuation of Commission

3. (1) The Public Service Commission of Halifax created by Chapter 47 of the Acts of 1944 shall continue:

(a) to be a body corporate;

(b) to have the same executive and administrative officials, who shall continue to exercise the same powers and duties in the same manner and to be the same extent as heretofore;

(c) to be bound by all valid existing contracts, obligations and agreements;

(d) to have, exercise and enjoy all the rights, franchises, privileges and powers vested in the Commission at the time this Act comes into force.

Preservation of Title to Property

(2) The title to all lands, easements, privileges and interest whatsoever which is vested in the Commission at the time this Act comes into force, shall continue to be vested in the Commission.

Composition

4.(1) The Commission consists of

(a) the Mayor of the Regional Municipality;

(b) three members of the Council appointed by the Council;

(c) three residents of the Regional Municipality, who are not members of the Council, appointed by the Council; and

(d) one member of the Regional Municipality staff,

appointed by the Chief Administrative Officer of the Regional Municipality.

(2) If, from any cause, any commissioner to be appointed by the Council has not been appointed within the time fixed for such appointment, or having been appointed does not act, the commissioners who have been appointed and consented to act may continue to act and to exercise all the powers or functions of the Commission until any vacancy so existing is filled.

5.(1) Each member of the Commission, appointed pursuant to clause (b) of subsection (1) of Section 4 holds office for a term of three years, but ceases to hold office if that member ceases to be a member of the Council.

(2) Each member of the Commission appointed pursuant to clause (c) of subsection (1) of Section 4 holds office for a term of two years, but ceases to hold office if that member ceases to be a resident of the Regional Municipality.

(3) The member of the Commission appointed pursuant to clause (d) of subsection (1) of Section 4 is a non-voting member of the Commission and holds office for such a term as is designated by the Chief Administrative Officer at the time of the appointment, but ceases to hold office upon ceasing to be a member of the Regional Municipality staff.

(4) Each member of the Commission is eligible for re-appointment.

(5) Where a person appointed to the Commission pursuant to clause (b) or (c) of subsection (1) of Section 4 ceases to be a member of the Commission before that member's term of office expires, the Council shall, within two months after the member ceases to be a member of the Commission, appoint a person pursuant to said clause (b) or (c), respectively, to fill the vacancy and the person so appointed holds office, as long as that person has those qualifications, for the remainder of the term of the person who ceases to be a member.

(6) Where a person appointed to the Commission pursuant to clause (d) of subsection (1) of Section 4 ceases to be a member of the Commission, the Chief Administrative

Chairman and Vice-Chairman	<p>Officer shall appoint to the Commission another member of the staff of the Regional Municipality who shall be a non-voting member of the Commission to hold office for such term as is designated by the Chief Administrative Officer.</p> <p>6.(1) The Commission shall appoint a chairman and a vice-Chairman from among its members who shall hold office until their successors are appointed.</p>
Secretary and Treasurer	<p>(2)The Commission shall appoint from its members or its employees a Secretary and a Treasurer whose duties shall be determined by the Commission. One person may be appointed Secretary and Treasurer.</p>
Quorum	<p>(3) Four voting members of the Commission constitute a quorum of the Commission.</p>
Honorarium of Commission Member	<p>(4) Members of the Commission who are not members of Council may be paid such annual honorarium as the Commission may determine and such honorarium shall be chargeable to the Commission's undertaking and paid from the revenue derived therefrom; provided however, that the total annual honorarium shall not exceed one-tenth of one percent of the gross annual revenue of the Commission.</p>
Relation of Regional Municipality to Commission	<p>7. As between the City and the Commission, to subject always to rights of the Bondholders and the Trustee for the Bondholders under the Deed of Trust and Mortgage dated January 2nd, 1952, made by the Commission in favour of the Nova Scotia Trust Company as trustee, the Regional Municipality shall be deemed to stand in the same position with respect to the property and assets of the Commission as if the Commission were a Joint Stock Company, incorporated under the Companies Act, and the Regional Municipality were the Owner of all the shares therein.</p>
By-Laws and Regulations	<p>8. The Commission may from time to time make such by-laws, rules or regulations not inconsistent with the Public utilities Act, as it may deem necessary or proper for the management of its affairs.</p>
Manager and Staff	<p>9.(1) The Commission shall appoint a manager and such engineers and officers as it may deem necessary to assist</p>

such manager in the administration of the affairs of the Commission and shall fix the salaries, wages or other remuneration of the manager and of all other officers and employees.

Payment of Expenses

(2) Such salaries, wages or other remuneration and all other expenses of the Commission shall be chargeable to the Commission's undertaking and paid from the revenue derived therefrom.

Powers

10. In addition to all powers of the Commission under any other Act, the Commission shall have power:

(a) to purchase, acquire, operate, manage, control the whole or any part of any water works facility or sewer system, either storm or sanitary, or both, or sewage-treatment facility owned by the Regional Municipality, or located in the Regional Municipality in that portion of the Municipality of East Hants, situate within the boundaries of the Pockwock Lake watershed, excepting that portion of the watershed situate in the Municipality of East Hants lying to the east of Highway 101, or located partly in the Regional Municipality and partly in that portion of the Municipality of East Hants, situate within the boundaries of the Pockwock Lake watershed, excepting that portion of the watershed situate in the Municipality of East Hants, lying to the east of Highway 101, and to assume any part or all of the assets and liabilities necessary to the carrying out of such purchase, acquisition, operation, management and control of such water works, sewer system or sewage-treatment facility;

Other Utilities

(b) to purchase, acquire, operate, manage and control the whole or any part of the undertaking of any or all public utilities in the Regional Municipality and to assume any part or all of the assets or liabilities necessary to the carrying out of the purchase, acquisition, operation, management and control of such public utilities.

Plant

(c) to purchase, acquire, operate, manage and control any plant, equipment or system which could be used in conjunction with any such public utilities;

Other Property

(d) to purchase, lease or exchange, hire or otherwise acquire any real or personal property and any rights or privileges

which the Commission may deem necessary or convenient for the purpose of its business, and in particular any lands, watercourses, watershed, easements, rights or other privileges, buildings, erection, machinery, plant, works, equipment and appliances;

- Replacements, etc.** (e) to make the necessary replacements, renewals, betterments, additions, and extensions to the plant or equipment owned or operated by the Commission;
- Agreements and Arrangements** (f) to enter into arrangements with any authorities, governmental, municipal, local or otherwise, that may seem conducive to the attainment of the Commission's powers, or any of them, and obtain from any such authority any rights, privileges and concessions which the Commission may have the Halifax Regional Municipality to receive and may think desirable to obtain, and carry out, exercise and comply with any such arrangements, rights, privileges and concessions;
- Negotiable Instruments** (g) to draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, and other negotiable or transferable instruments;
- Borrowing** (h) subject to the Public Utilities Act, to borrow from time to time such sums as may be required by the Commission;
- (j) (i) from time to time to sell or dispose of any of the assets of the Commission deemed by the Commission to be unnecessary for the purpose of its operation, or
(ii) with the approval of the Board and the Council to sell or dispose of the undertaking of the Commission or any part thereof;
- Public Utility Business** (k) to engage in any public utility business in any part of the County of Halifax;
- Investment of Funds** (l) to invest and deal with the moneys of the Commission not immediately required in such securities and in such manner as may be from time to time determined by the Commission; provided, however, that this power shall not be used in a manner inconsistent with the Public Utilities Act, or the regulations of the Board;

Pensions

(m) to provide pensions for full time employees of the Commission or any class thereof in such manner as the Commission may determine, whether by payments from its current revenues, or by arrangement with Her Majesty pursuant to the Government Annuities Act (Canada), or by contract with an insurer authorized to do business in Nova Scotia, or otherwise, with power to determine who shall be an employee within the meaning of any pension plan provided; and with further power to deduct or provide for the deduction by instalments from the salary, wages or other remuneration of every employee to whom the pension plan provided is applicable the amount which the employee is by the terms of the plan required to contribute; and with further power to provide for payments or contributions to be made by the Commission;

(n) to invoice and collect, as agent for the Regional Municipality, control charges or other charges of the Regional Municipality related to water consumption and to enter into an agreement with the Regional Municipality respecting the invoicing and collecting of the charges;

General

(o) generally to do all acts and things necessary or incidental or conducive to or consequential upon the carrying out of the foregoing powers or any of them.

Works on streets, etc.

11. Subject to the Public Highways Act, the Commission is authorized and empowered in the exercise of any of its powers to enter into and upon any streets, roads, highways, squares or other places or any lands or premises and make such excavations and to do and perform such other work thereon as the Commission deems necessary or expedient, to the operation and for the maintenance of its plant and equipment. In the case of new installations or extensions or additions, the Commission shall make application in writing, accompanied by a plan or plans showing the nature and proposed location of the work, to the proper municipal authority; and receive a permit from such municipal authority before entering upon any streets, roads, highways, squares, or other places or lands belonging to such municipality.

12. The Commission, where it deems necessary of or

Acquisition of land	expedient, may purchase or otherwise acquire or may without the consent of the owner thereof take and expropriate any land or any estate or interest therein or any easements, rights or privileges in, over or relating to land, for the purposes of the Commission.
Easements of Crown Lands	13. The Governor in Council may from time to time upon such terms and conditions as he considers advisable, grant to the Commission an easement, right or privilege in, over or relating to lands of Her Majesty for the purposes of the Commission and may authorize a member of the Executive Council to execute and deliver in the name and on behalf of Her Majesty all necessary instruments and documents therefore.
Interpretation	14. In this Act, the expression "land" includes: <ul style="list-style-type: none"> (i) any land, whether held in fee simple or for any lesser estate or interest; (ii) any stream, water course or land covered with water, or the right to dam up or stop any flow of water and thereby to overflow any land; and (iii) any easement or right in, upon or over any land or any other estate, right or interest therein, including land covered with water;
Preliminary Surveys	15. When the Commission decides to expropriate any land, it shall cause to be prepared a plan and description of such land and for any purposes connected with any such expropriation the Commission or any of its officers, servants or agents may enter upon any land in respect to which the expropriation is contemplated, and survey or examine the same, and if necessary in its or his judgement may make borings or other excavations therein, and if such expropriation is not made, any damage to the land shall be paid for by the Commission.
Warrant for Possession	16. The procedures with respect to the expropriation of land and the determination of compensation therefore shall be those set out in the Expropriation Act, 1973.
Reference to Court	17. The compensation payable for land expropriated or for injurious affection shall be the compensation payable under

re Compensation

the provisions of the Expropriation Act, 1973.

Agreements for Power and Water

18. The Commission is authorized and empowered to make and carry out any agreement or agreements to purchase or otherwise obtain a supply of electric power and energy or water or for the use of such works, lines, system, plant, apparatus, equipment and things as the Commission may require.

Borrowing by Commission

19.(1) The Commission shall have power and is hereby authorized to borrow such sums as may be authorized and approved by the Board for the purposes of the Commission, and to issue and sell bonds or debentures therefore and may secure such bonds or debentures by mortgage or otherwise on the revenues and real and personal property and undertaking of the Commission, including after acquired property.

Form of Debentures

(2)Such bonds or debentures may be for such separate sums and at such rates of interest and upon such terms and conditions and in such form and payable at such period or periods or at such time or times and place or places as the Commission determines and the Board approves.

Execution of Debentures and Interest Coupons

(3) Every bond or debenture issued by the Commission and every deed of trust or mortgage made by the Commission securing the same shall be signed by the Chairman or Vice-Chairman of the Commission, and shall be counter-signed by the Secretary or Manager, whose signatures may be facsimile signatures and shall bear the Common Seal of the Commission. The interest coupons of such bonds or debentures shall be signed by the Secretary or Manager, whose signature may be a facsimile signature, but it shall not be necessary for such coupons to bear the Common Seal.

Guarantee by Regional Municipality

(4) The Regional Municipality is empowered to and may from time to time guarantee unconditionally the payment of the principal and interest or the principal or the interest only of the bonds or debentures issued by the Commission or of such of the bonds or debentures issued by the Commission as the Regional Municipality may by resolution of the Council determine, and the Regional Municipality may also guarantee the due performance by the Commission of all terms, provisions, covenants and conditions of every deed of

trust or mortgage made by the Commission securing the same, and upon such guarantee being given by the Regional Municipality, the Regional Municipality shall be liable according to the terms of the same for such payment or such due performance, or both, to the same extent and in all respects whatsoever as if the Regional Municipality were the principal debtor.

Form of Guarantee

(5) Each such guarantee if given shall be in the form similar to the following, with such variations as may be necessary, and shall be endorsed on every such bond or debenture issued by the Commission which is subject to any such guarantee;

"The Halifax Regional Municipality, pursuant to the Halifax Regional Water Commission Act, hereby unconditionally guarantees to the lawful holder or holders hereof due payment of the principal and interest (or the principal or the interest) of the within bond (or debenture) according to its terms; and, if a deed of trust or mortgage is made, due performance by the Halifax Regional Water Commission of the Deed of trust or mortgage securing the same,

19.(A) Where funds are borrowed under Section 19 for purposes of providing the extension of water service throughout the Regional Municipality, the Commission and the Regional Municipality may enter into an agreement for the Regional Municipality to pay to the Commission the amount, in whole or in part, of the funds borrowed.

19.(B) The Regional Municipality may impose a charge to cover the cost of payments made to the Commission under an agreement referred to in Section 19A as though it were a charge for the municipal portion of the capital cost of installing a water system under clause 81(1)(c) of the *Municipal Government Act*.

dated.....
in favour of
Dated at Halifax, Nova Scotia 20...

Execution of Guarantee

IN WITNESS WHEREOF the Regional Municipality has caused its Corporate Seal to be hereunto affixed and this Guarantee to be signed by its Mayor and Clerk".

(6) The Mayor and Clerk of the Regional Municipality are hereby authorized to and shall sign each such guarantee on behalf of the Regional Municipality and shall affix the corporate seal of the Regional Municipality thereto. Such execution shall be conclusive evidence for all purposes of the validity of the guarantee and that the provisions of this Act with respect to such guarantee have been duly complied with.

Proof of Regularity of Borrowing

(7) A certificate signed by the Chairman or Vice-Chairman and Secretary or Manager of the Commission under the common seal of the Commission that all necessary resolutions of the Commission have been duly and regularly passed authorizing such borrowing and that such borrowings have been authorized and approved by the Board, together with such bonds or debentures and any deed of trust or mortgage, and the form and execution of the same, and that all matters precedent and incidental thereto have been duly complied with, shall be conclusive evidence of the fact.

Taxation of Commission Property

20. The Commission shall be liable to taxation for real property tax levied by the Regional Municipality in respect of all of the real property owned, operated or managed by the Commission and for business tax in respect of the same in the same manner as if such real property were owned and occupied by it for the purposes other than residential.

Application of Public Utilities Act

21. The provisions of the Public Utilities Act shall apply to the Commission.

Annual Financial Report

22. (1) The Commission shall annually, following the end of its fiscal year, have prepared and submit to the Council statements of revenue and expenses, surplus or deficit account and assets and liabilities all drawn or prepared in accordance with the "Regulations of the Board of Commissioners of Public Utilities of Nova Scotia Prescribing a Uniform System of Accounts", for each public utility operated by the Commission. Accompanying such

financial statements, the Commission shall, in writing, submit to the Council its recommendation of the amount or amounts of money to be paid from the surplus of the Commission's undertaking or undertakings to the Regional Municipality for the general purposes of the Regional Municipality.

(2) The amount or amounts to be paid by the Commission from the surplus of the Commission's undertaking or undertakings to the Regional Municipality for general purposes of the Regional Municipality shall be such amount or amounts as shall be from time to time agreed upon by the Commission and the Council.

**Surplus Payments to
Halifax Regional
Municipality**

23. The Commission may carry out the terms and conditions of any agreement entered into with the Regional Municipality for the acquisition, lease, operation and management of the water works system of the Regional Municipality and may enter into further agreements with the Regional Municipality for modifying or amending any such previous agreement, with the approval of the Board.

**Agreements with Halifax
Regional Municipality**

24. The Regional Municipality may carry out the terms and conditions of any agreement entered into with the Commission for the purposes set out in this Act and may enter into further agreements with the Commission for modifying or amending any such previous agreement.

Idem

25. (1) No person shall place or permit to escape upon any land adjacent to Chain, Long, Big Indian and Spruce Hill Lakes, and all lakes, ponds or other bodies of water tributary thereto, or any lake or tributary of such lake at any time forming part of the water system of the Commission, or upon any land or water forming part of the watershed of any one of such lakes, any matter or thing of an offensive or deleterious nature, or calculated to impair the quality of the water for use for domestic purposes.

Protection of Watershed

(2) No person shall

(a) cut any ice on any lake forming part of the water system of the Commission, or fish, bathe, wash in or otherwise impair the quality of the water in any such lake;

Idem

or

(b) cut any wood or camp on any land the property of the Commission located on the watershed of any lake forming part of the water system of the Commission, or haul any wood, wherever cut, across any such lake without first obtaining the consent in writing of the Commission.

(3) No person shall upon any land forming part of the watershed of any of the lakes forming part of the water system of the Commission, erect or construct or place or cause or permit to be erected, constructed or placed, any building or structure unless such person has first obtained from the Commission permission to do so.

Building on Watershed

(4) The Manager of the Commission may cause proceedings to be taken to enforce the provisions of this Section and the payment of any penalty for any violation thereof, and may in addition cause to be taken proceedings by action in the name of the Commission to restrain the continuance of the same.

Enforcement

(5) The Manager of the Commission may in writing appoint such person or persons as he may deem fit for the purpose of enforcing the provisions of this Section and the cost thereof shall be borne by the Commission. Any person so appointed shall have the powers and privileges of a police officer, and may arrest, without warrant, any person found by him committing any of the offences enumerated in this Section.

Idem

(6) In any action or proceeding under this Section, a map or plan of any such lake, and of the watershed of the lake, shall be sufficient evidence of the matters represented on the map or plan.

Proof of Watershed Area

(7) Every person who contravenes or fails to comply with the provisions of this Section, shall for each such offence be liable to a penalty not exceeding one hundred dollars, and in default of payment to imprisonment for a period not exceeding sixty days, and every day during which any such contravention or failure to comply continues shall be deemed a fresh offence.

Penalty

26. The Commission is not liable for damages

Negligence

(a) caused by the breaking of any reservoir, water main, water service pipe or attachment;

(b) caused by the interference of the supply of water by the repair or maintenance of the water system; or

(c) generally for any action due to the operation of a water system,

unless the damages are shown to be directly due to the negligence of the Commission or its employees.

27. Notwithstanding anything contained in this Act or enactment

Sewer Systems as Public Utilities

(a) the Public Utilities Act does not apply to the ownership, operation, management or control by the Commission of any sewer system or sewage-treatment facility; and

(b) the Commission is not a public utility within the meaning of Public Utilities Act with respect to its ownership, operation, management or control of any sewer system or sewage-treatment facility.