

## EC2006-137

**EMPLOYMENT STANDARDS ACT  
REGULATIONS  
AMENDMENT**

Pursuant to section 41 of the *Employment Standards Act* R.S.P.E.I. 1988, Cap. E-6.2, Council made the following regulations:

**1. The *Employment Standards Act* Regulations (EC573/98) are amended**

**(a) by renumbering section 2 as section 3; and**

**(b) by the addition of the following after section 1:**

2. (1) Tips or gratuities are the property of the employee to whom or for whom they are intended. Tips and gratuities  
property of  
employee
- (2) No employer shall Restriction
- (a) withhold tips or gratuities intended for an employee; or
- (b) treat tips or gratuities intended for an employee as the wages or partial wages of the employee,
- unless the employer and the employee agree that the tips or gratuities of the employee are to be calculated as additional wages of the employee.
- (3) Where the tips and gratuities of an employee are based on the billings of his or her employer in respect of banquets, bus tours, and other similar events, the employer shall pay the tips and gratuities to the employee within 60 days of the date of the event. Billings
- (4) No owner of a work establishment or employer of an employee shall require an employee to share a tip or a gratuity with the owner or employer of the employee. Exclusive to  
employee
- (5) Where an employer imposes a surcharge or other charge on a customer in lieu of the payment of tips or gratuities to an employee, all of the amounts collected in respect of the surcharge or other charge Employer surcharge
- (a) are deemed to be the property of the employee;
- (b) shall be distributed by the employer to the employee not later than the time of the next pay period; and
- (c) subject to clause 2(2)(b), shall not be withheld by the employer or treated by the employer as the wages or partial wages of an employee.
- (6) An employer shall not pass on any administrative charges of the employer, including credit card or debit card charges, to an employee. Prohibition
- (7) An employer may adopt the practice of pooling tips and gratuities for the benefit of some or all of the employees, but such practice does not give the employer a proprietary interest in the tips and gratuities so pooled. Pooling
- (8) An employer shall advise an employee, in writing, of any pooling policy in effect at the time of hiring. Notice

**2. These regulations come into force on March 25, 2006.**

**EXPLANATORY NOTES**

The amendment provides for the administration of tips and gratuities by an employer to an employee. The amendment confirms that tips or gratuities are the property of the employee and cannot be withheld from the employee or be treated as wages or partial wages of the employee, unless the employer and the employee agree to include tips or gratuities of an employee as additional wages of the employee. The amendment outlines the time-frame within which tips or gratuities of the employee, which are based on the billings of the employer, are to be paid to the employee. The amendment also confirms that an owner of a work establishment or an employer cannot require an employee to share a tip or a gratuity with the owner or employer of an employee, and provides that in cases of a surcharge or other charge being imposed on a customer in lieu of the payment of tips or gratuities to an employee, all amounts collected are deemed to be the property of the employee and shall be distributed to the employee and not be considered as the wages or partial wages of the employee. The amendment confirms that an employer is not to pass on any administrative charges of the employer to an employee, authorizes the policy of pooling, and provides that an employer is to notify an employee, in writing, at the time of hiring of any pooling policy in effect.

**EC2006-138**

EXECUTIVE COUNCIL ACT  
 MINISTER OF AGRICULTURE, FISHERIES AND AQUACULTURE  
 AUTHORITY TO ENTER INTO AN AGREEMENT  
 (CONTRIBUTION AGREEMENT FOR THE  
 NATIONAL FARM STEWARDSHIP AND  
 GREENCOVER CANADA PROGRAMS)  
 WITH THE  
 GOVERNMENT OF CANADA

Pursuant to clause 10(a) of the *Executive Council Act* R.S.P.E.I. 1988, Cap. E-12 Council authorized the Minister of Agriculture, Fisheries and Aquaculture to enter into an agreement with the Government of Canada, as represented by the Minister of Agriculture and Agri-Food, to set out terms and conditions of funding the development and implementation of the Greencover Canada Program and the National Farm Stewardship Program in support of beneficial management practices in Prince Edward Island for the period 1 April 2006 to 31 March 2008, such as more particularly described in the draft agreement.

**EC2006-139**

EXECUTIVE COUNCIL ACT  
 ATTORNEY GENERAL  
 AUTHORITY TO ENTER INTO AN AGREEMENT  
 (PROJECT FUNDING AGREEMENT  
 CHILD-CENTRED FAMILY JUSTICE FUND)  
 WITH THE  
 GOVERNMENT OF CANADA

Pursuant to clause 10(a) of the *Executive Council Act* R.S.P.E.I. 1988, Cap. E-12 Council authorized the Attorney to enter into an agreement with the Government of Canada, as represented by the Minister of Justice and the Attorney General, to set out terms and conditions of funding some of the costs associated with Prince Edward Island's family justice activities for the fiscal year 2005-2006, such as more particularly described in the draft agreement.

EXECUTIVE COUNCIL \_\_\_\_\_ 14 MARCH 2006

**EC2006-140**

FINANCIAL ADMINISTRATION ACT  
SPECIAL WARRANT  
(SUPPLEMENTARY EXPENDITURE FOR FISCAL YEAR 2005/06)  
PRINCE EDWARD ISLAND ENERGY CORPORATION

Pursuant to subsection 37(1) of the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9, Council ordered that a Special Warrant do issue authorizing a supplementary payment out of the Operating Fund for the Prince Edward Island Energy Corporation as follows:

Account Class	Account Name	Amount
<b>OPERATIONS</b>		
	Administration	
0230-02699	Miscellaneous	\$ 3,000.00
	Professional and Contract Services	
0230-03010	Contract Services (Other)	<u>47,000.00</u>
		<u>\$50,000.00</u>

Further, Council noted that this amount will be fully offset by revenue from the sale of wind data.

**EC2006-141**

FINANCIAL ADMINISTRATION ACT  
SPECIAL WARRANT  
(SUPPLEMENTARY EXPENDITURE FOR FISCAL YEAR 2005/06)  
LEGISLATIVE ASSEMBLY

Pursuant to subsection 37(1) of the *Financial Administration Act* R.S.P.E.I. 1988, Cap. F-9, Council ordered that a Special Warrant do issue authorizing a supplementary payment out of the Operating Fund for the Legislative Assembly as follows:

Account Class	Account Name	Amount
<b>COMMISSION ON PRINCE EDWARD ISLAND'S ELECTORAL FUTURE</b>		
	Professional and Contract Services	
0766-03010	Contract Services (Other)	<u>\$114,900.00</u>

**EC2006-142**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
RICHARD FITZGERALD  
(APPROVAL)

Pursuant to section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Richard Fitzgerald of Cork, Ireland to acquire a land holding of approximately fourteen decimal four (14.4) acres of land in Lot 1, Prince County, Province of Prince Edward Island, being acquired from Mary Merkley of Toronto, Ontario.

**EC2006-143**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
RAYMOND HAKIM AND VICKIE HAKIM  
(APPROVAL)

Pursuant to section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Raymond Hakim and Vickie Hakim, both of Franklin, Tennessee to acquire a land holding of approximately fifty-five (55) acres of land in Lot 21, Prince County, Province of Prince Edward Island, being acquired from Keith Bernard of Kensington, Prince Edward Island.

Further, Council noted that the said land holding, being part of Provincial Property No. 90787, was previously identified for non-development use in accordance with section 2 of the Land Identification Regulations (EC606/95) made under the said Act. Identification continues to apply.

**EC2006-144**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
GERALD MONIGAN  
(APPROVAL)

Pursuant to section 4 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Gerald Monigan of Ringwood, New Jersey to acquire an interest in a land holding of approximately seven decimal two (7.2) acres of land in Lot 63, Kings County, Province of Prince Edward Island, being acquired from Linden Stewart and Cecilia Stewart, both of Montague, Prince Edward Island.

**EC2006-145**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
ARLINGTON TRANSPORT LTD.  
(APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Arlington Transport Ltd. of Arlington, Prince Edward Island to acquire a land holding of approximately eight (8) acres of land in Lot 14, Prince County, Province of Prince Edward Island, being acquired from Leonard McNeill and Glenn McNeill, both of Richmond, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2006-146**

PRINCE EDWARD ISLAND  
 LANDS PROTECTION ACT  
 PETITION TO ACQUIRE A LAND HOLDING  
 ARLINGTON TRANSPORT LTD.  
 (APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Arlington Transport Ltd. of Arlington, Prince Edward Island to acquire a land holding of approximately four decimal zero six (4.06) acres of land in Lot 14, Prince County, Province of Prince Edward Island, being acquired from Kenneth Noonan, Gardiner MacNeill, Executors of the Estate of Walter Noonan, Thomas Noonan, Mary Noonan and Mary Elwin MacDonald, all of Richmond, Prince Edward Island.

**EC2006-147**

PRINCE EDWARD ISLAND  
 LANDS PROTECTION ACT  
 PETITION TO ACQUIRE A LAND HOLDING  
 CAMP ABEGWEIT ORGANIZATION  
 (APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Camp Abegweit Organization of Charlottetown, Prince Edward Island to acquire a land holding of approximately one decimal four two (1.42) acres of land in Lot 28, Prince County, Province of Prince Edward Island, being acquired from Gerald B. MacFadyen and Wendell C. MacFadyen, both of Augustine Cove, Prince Edward Island.

**EC2006-148**

PRINCE EDWARD ISLAND  
 LANDS PROTECTION ACT  
 PETITION TO ACQUIRE A LAND HOLDING  
 DCT VENTURES, LLC  
 (APPROVAL)

Pursuant to section 5 and section 9 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to DCT Ventures, LLC of Ringwood, New Jersey to acquire a land holding of approximately seven decimal two (7.2) acres of land in Lot 63, Kings County, Province of Prince Edward Island, being acquired from Linden Stewart and Cecilia Stewart, both of Montague, Prince Edward Island PROVIDED THAT the said real property is identified for non-development use pursuant to the Land Identification Regulations (EC606/95) made under the said Act.

**EC2006-149**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PETITION TO ACQUIRE A LAND HOLDING  
NOYE AND NOYE LIMITED  
(APPROVAL)

Pursuant to section 5 of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5 Council granted permission to Noye and Noye Limited of Tyne Valley, Prince Edward Island to acquire a land holding of approximately one (1) acre of land in Lot 10, Prince County, Province of Prince Edward Island, being acquired from the Consolidated Credit Union Ltd. of Summerside, Prince Edward Island.

**EC2006-150**

PRINCE EDWARD ISLAND  
LANDS PROTECTION ACT  
PROPERTY NO. 010942, LOT 1, PRINCE COUNTY  
SUBDIVISION RESTRICTION  
AMENDMENT

Pursuant to subsection 9(2) of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5, Council amended the condition preventing subdivision in respect of approximately one hundred and forty-two decimal eight (142.8) acres of land, being Provincial Property No. 010942 located in Lot 1, Prince County, Prince Edward Island and currently owned by Waterford Cottages & Campground Inc. of Elmsdale, Prince Edward Island.

Council noted that this amendment will cancel the condition preventing subdivision on approximately thirteen (13) acres to allow for the subdivision of no more than nine residential lots. Further, Council determined that the condition preventing subdivision shall continue to apply to the remaining land.

This Order-in-Council comes into force on 14 March 2006.

**EC2006-151**

**PLANNING ACT  
SUBDIVISION AND DEVELOPMENT REGULATIONS  
AMENDMENT**

Pursuant to sections 8 and 8.1 of the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, Council made the following regulations:

**1. The *Planning Act* Subdivision and Development Regulations (EC693/00) are amended by the addition of the following after section 29:**

**29.1** (1) Notwithstanding section 29, the Minister may, on the request of an owner of a lot in a subdivision, approve a change of use respecting the lots in an approved plan of subdivision, where

Subdivision  
approved before  
1974

- (a) the plan of subdivision was approved prior to 1974;
- (b) the public roads shown on the approved plan have not been constructed or conveyed to the government; and
- (c) at least 60% of the owners of the lots have indicated support for the requested change of use.

(2) Subject to subsection (3), section 14 applies, with such changes as are necessary, to a request made under subsection (1).

S. 14 applies with  
necessary changes

(3) The Minister may waive any of the requirements of section 14 in respect of a request made under subsection (1). Waiver of s. 14 requirements

(4) If the Minister approves the request under subsection (1), the Minister shall give notice of the approval to the owners of the lots in the subdivision. Notice of approval

(5) For the purposes of this section, “support for the requested change of use” includes support for the requested change of use that was communicated to the Minister or an employee of the Department in the time period between January 1, 2000 and the date this section comes into force. “support for the requested change of use”, defined

**2. These regulations come into force on March 25, 2006.**

### EXPLANATORY NOTES

**SECTION 1** allows the Minister to approve a change of use of the lots in a subdivision where the plan of subdivision was approved prior to 1974, the public roads were not constructed or not conveyed to the government and 60% of the owners support the requested change. The request is dealt with under s. 14 of the regulations except that the Minister can waive any of the requirements of s. 14. Notice of the approval is given to the owners of the lots in the subdivision. The amendments also allow the support for the request to have been communicated to the Minister within the last 5 years.

**SECTION 2** is the commencement of these regulations.

### EC2006-152

#### PUBLIC DEPARTMENTS ACT ACTING MINISTERS APPOINTMENTS

Under authority of subsection 4(2) of the *Public Departments Act*, R.S.P.E.I. 1988, Cap. P-29 the following appointments were made:

1. Honourable Gail Shea to be Acting Minister of Environment, Energy and Forestry commencing on the 21st day of March 2006, and continuing for the duration of the absence from the Province of Honourable Jamie Ballem.
2. Honourable Mitch Murphy to be Acting Minister of Health and Acting Minister of Social Services and Seniors commencing on the 19th day of March 2006, and continuing for the duration of the absence from the Province of Honourable Chester Gillan.

### EC2006-153

#### PUBLIC HEALTH ACT PART II DIRECTION TO EMERGENCY MEDICAL SERVICES BOARD

Pursuant to section 33 of Part II of the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30, Council hereby directs the Emergency Medical Services Board not to issue any further permits to provide ambulance services in the province for the period from April 1, 2006 to March 31, 2007. This direction is based on the fact that an adequate supply and distribution of ambulance services already exists by virtue of the permit issued to Island EMS Inc.

**EC2006-154**

QUEEN'S PRINTER ACT  
 QUEEN'S PRINTER  
 MICHAEL FAGAN  
 APPOINTMENT

Under authority of section 1 of the *Queens Printer Act* R.S.P.E.I. 1988, Cap. Q-1, Council appointed Michael Fagan of Stanhope to be the Queen's Printer (vice Beryl Bujosevich, retired) effective 24 February 2006.

Order-in-Council No. EC272/95 of 12 April 1995 is hereby rescinded.

**EC2006-155**

SECURITIES ACT  
 ATTORNEY GENERAL  
 DESIGNATION

Pursuant to clause 1(o) of the *Securities Act* R.S.P.E.I. 1988, Cap. S-3, Council designated the Attorney General to be responsible for the administration of the said Act, effective 1 April 2002.

**EC2006-156**

SUMMARY PROCEEDINGS ACT  
 TICKET REGULATIONS  
 AMENDMENT

Pursuant to subsection 10(3) of the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9, Council made the following regulations:

**1. Schedule 2 of the *Summary Proceedings Act* Ticket Regulations (EC321/01) is amended by the addition of the following in the appropriate columns before the table entitled "HIGHWAY TRAFFIC ACT COMMERCIAL VEHICLE (TRIP INSPECTION AND RECORDS) REGULATIONS (EC225/89)":**

HIGHWAY TRAFFIC ACT  
 COMMERCIAL DRIVER, CARRIER AND AUDIT REVIEW SYSTEMS  
 REGULATIONS  
 (EC21/06)

1	Driver or carrier driving or operating commercial vehicle where maximum allowable accumulated demerit points have been exceeded .....	3(7)	\$200
2	Driver or carrier making a false statement in an application for a safety rating certificate .....	5(4)	200
3	Driver or carrier failing to return to the Registrar within ten calendar days from the date of revocation of a safety rating certificate, all number plates and vehicle permits .....	5(6)	200
4	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of the driver's employment application .....	7(a)(i)	200
5	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf an annual certified abstract of the driver's operating record obtained from Registrar .....	7(a)(ii)	200
6	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of the class of license held by the driver .....	7(a)(iii)	200
7	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf the medical records of the driver .....	7(a)(iv)	200
8	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of the training and special qualifications of the driver, with expiry dates .....	7(a)(v)	200



9	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of the hours of service worked by each driver .....	7(a)(vi)	200
10	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of all summary or indictable convictions for driving offences....	7(a)(vii)	200
11	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of all traffic accidents in which the driver was involved .....	7(a)(viii)	200
12	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of the driver's Trip Inspection Reports .....	7(a)(ix)	200
13	Carrier failing to maintain for each driver who operates a commercial vehicle on the carrier's behalf records of the driver's receipts for on-road travel .....	7(a)(x)	200
14	Carrier failing to maintain for each commercial vehicle owned or operated by the carrier records of all vehicle maintenance and inspection procedures carried out in accordance with applicable regulations .....	7(b)(i)	200
15	Carrier failing to maintain for each commercial vehicle owned or operated by the carrier records of any notice of defect received from the vehicle manufacturer and proof that the defects have been corrected .....	7(b)(ii)	200
16	Carrier failing to maintain for each commercial vehicle owned or operated by the carrier records of fuel receipts, bills of lading and shipping documents .....	7(b)(iii)	200
17	Carrier failing to maintain for each commercial vehicle owned or operated by the carrier CVSA Inspection Reports .....	7(b)(iv)	200
18	Carrier failing to maintain results of CVSA Inspections .....	7(c)	200
19	Carrier failing to maintain carrier's policy and procedures for driver management and vehicle maintenance .....	7(d)	200
20	Carrier failing to maintain any other records considered necessary by the Registrar to determine the safety rating of a carrier .....	7(e)	200
21	Carrier failing to maintain facility audit records for current calendar year and four calendar years thereafter .....	8(1)	200
22	Carrier failing to keep records and make records available at the carrier's main place of business .....	9(1)	200
23	Carrier failing to provide notice of change of main place of business within province to Registrar within ten calendar days .....	9(2)	200
24	Carrier failing to provide notice of change in name or change in officers, directors or principals of carrier's business to Registrar within ten calendar days .....	9(3)	200
25	Carrier failing to pay any costs incurred by the Department for carrying out a facility audit or an inspection conducted outside province .....	10	200
26	Carrier failing to make facility audit records available for inspection within two business days from the date the request was made by the Registrar and during normal business hours at the carrier's main place of business .....	11(1)	200
27	Altering, defacing, destroying or otherwise falsifying any records required to be maintained .....	12(a)	200
28	Obstructing or preventing any person authorized to carry out a facility audit from entering the carrier's premises for the purposes of inspecting the carrier's records or any of the carrier's commercial vehicles .....	12(b)	200
29	Obstructing any person authorized to carry out a facility audit .....	12(c)	200
30	Failing to maintain required records .....	12(d)	200
31	Failing to produce required records for a facility audit .....	12(e)	200

**2. These regulations come into force on March 25, 2006.**

**EXPLANATORY NOTES**

The amendment adds offence provisions in the *Summary Proceedings Act* Ticket Regulations for the *Highway Traffic Act* Commercial Driver, Carrier and Audit Review Systems Regulations.