

EC2008-273**BEVERAGE CONTAINERS ACT
DECLARATION RE**

Under authority of section 36 of the *Beverage Containers Act*, Stats. P.E.I. 2008, 2nd Session, c. 4 Council ordered that a Proclamation do issue proclaiming the said "Beverage Containers Act" to come into force as follows:

Sections 1, 3, 4(2), 4(3), 5, 6, 7, 9(2) through 9(12), 13(2), 13(3), 13(4), 13(6) through 13(10), 13(12), 13(13), 13(16), 13(17), 19, 22, 23, 28 through 31, 33 and 36 to come into force effective April 29, 2008;

Sections 2, 4(1), 8, 9(1), 10, 11, 12, 13(1), 13(5), 13(11), 13(14), 13(15), 14 through 18, 20, 21, 24 through 27, 32 and 34 to come into force effective May 3, 2008; and

Section 35 to come into force effective August 1, 2008.

EC2008-274**BEVERAGE CONTAINERS ACT
GENERAL REGULATIONS**

Pursuant to section 33 of the *Beverage Containers Act* R.S.P.E.I. 1988, Cap. B-2.1, Council made the following regulations:

INTERPRETATION AND APPLICATION

1. In these regulations, "Act" means the *Beverage Containers Act* Act, defined R.S.P.E.I. 1988, Cap. B-2.1.

2. The following liquids are excluded from the definition of "beverage" Exclusions in clause 1(1)(d) the Act:

- (a) milk, including chocolate milk and milk products;
- (b) milk substitutes, including soya milk and rice milk;
- (c) concentrated drinks.

REVOCATION OF APPROVALS

3. (1) Where the Minister revokes an approval of a type of beverage container under subsection 6(5) of the Act the Minister shall Revocation of approval of a type of beverage container

- (a) cause a written notice of the revocation, which includes the reasons therefore, to be provided to the distributor or, where applicable, to the agent of the distributor; and
- (b) cause details of the approved type of beverage container to be removed from the Department's website.

(2) The revocation of an approval of a type of beverage container under subsection 6(5) of the Act does not take effect until the revocation has been served in accordance with these regulations on the distributor to whom the approval was issued. Revocation effective on notice being given

REGISTRATION OF DISTRIBUTORS

4. (1) The Minister may, on receipt of an application from a distributor for registration, register the distributor under subsection 9(3) of the Act if Registration of distributors

- (a) the application has been made in accordance with the requirements of subsection 9(2); and
- (b) the distributor is registered as a distributor under the *Beverage Containers Act*, S.N.B. 1991, c. B-2.2 of the Province of New Brunswick.

(2) On registering a distributor, the Minister shall give notice of the registration, in writing, to the distributor and shall include in the notice a copy of any term or condition that the Minister has imposed on the registration under subsection 9(4) of the Act.

Notice of registration

(3) Where, at any time subsequent to the registration of a distributor, the Minister,

Notice of imposition, amendment, substitution or revocation of term or condition after registration

- (a) under subsection 9(4) of the Act, imposes a term or condition on the registration of a distributor; or
- (b) under subsection 9(5) of the Act,
 - (i) amends, substitutes or revokes any term or condition imposed on the registration of a distributor; or
 - (ii) imposes additional terms and conditions on the registration of a distributor,

the Minister shall give notice, in writing, of the imposition of the term or condition, or of the amendment, substitution or revocation of any term or condition, as the case may be, to the distributor and shall include in the notice a copy of any term or condition that has been imposed, amended or substituted by the Minister.

(4) The imposition of a term or condition, or the amendment, substitution or revocation of a term or condition, under subsection 9(4) or (5) of the Act, on the registration of a distributor does not take effect until the notice required by subsection (3) has been served in accordance with these regulations on the distributor.

Imposition, amendment, substitution or revocation of term or condition effective on notice

(5) Where the Minister revokes or suspends the registration of a distributor under subsection 9(6) of the Act, the Minister shall give notice, in writing, of the revocation or suspension, as the case may be, and the reasons therefor to the distributor.

Notice of revocation or suspension of registration

(6) The revocation or suspension of the registration of a distributor under subsection 9(6) of the Act does not take effect until the notice required by subsection (5) has been served in accordance with these regulations on the distributor.

Revocation or suspension effective on notice being given

5. (1) Where

- (a) a distributor sells or intends to sell refillable beverage containers while registered; and
 - (b) the Minister, under subsection 9(4) or (5) of the Act, imposes a condition on the registration of a distributor that the distributor deliver a security to the Minister in respect of the sale of such refillable beverage containers,
- the security shall have a face value of,
- (c) if the distributor's empty refillable beverage containers are collected by an agent and the agent delivers the security on behalf of that distributor under subsections 6(1) and (2), \$250,000; or
 - (d) if the distributor's empty refillable beverage containers are not collected by an agent, \$20,000.

Requirements for security re distribution of refillable containers

(2) Where

- (a) a distributor sells or intends to sell recyclable beverage containers while registered; and
- (b) the Minister, under subsection 9(4) or (5) of the Act, imposes a condition on the registration of a distributor that the distributor deliver a security to the Minister in respect of the sale of such recyclable beverage containers,

Requirements for security re distribution of recyclable containers

the security shall have a face value of

- (c) if the distributor's empty recyclable beverage containers are collected by an agent and the agent delivers the security on behalf of that distributor under subsections 6(1) and (2), \$250,000; or
- (d) if the distributor's empty recyclable beverage containers are not collected by an agent, \$20,000.
- (3) A security referred to in subsection (1) or (2) shall be in the form of Form of security
- (a) a deposit of money;
- (b) a certified cheque made payable to the Provincial Treasurer;
- (c) a negotiable bond signed over to the Provincial Treasurer; or
- (d) an irrevocable documentary credit or letter of credit from a bank or other lending institution acceptable to the Minister that is negotiable only by the Minister.
- (4) A security described in clause (3)(d) shall be for a term of not less than one year. Term
- (5) The depositor of a security shall maintain the security, or renew the security as may be necessary, until the Minister determines that it is no longer required. Duty to maintain or renew security
- (6) A renewal of a security shall be delivered to the Minister not less than twenty-one days before the lapse, expiration or cancellation date of a security delivered under these regulations. *Idem*
- (7) A security or a renewal of a security shall be deemed to be delivered to the Minister when the Minister has notified the depositor that the security is in accordance with these regulations and is acceptable to the Minister. Delivery
- (8) The Minister shall return a security to the depositor when the Minister determines that the security is no longer required. Return of security
- 6.** (1) A natural person, partnership or corporation that is a distributor or a corporation that is an agent of two or more distributors may deliver the security required by the Minister under subsection 9(4) or (5) of the Act. Delivery of security
- (2) The security delivered for two or more distributors, who sell or will be selling refillable beverage containers while registered, by a corporation that is an agent of the distributors shall be in the amount required under clause 5(1)(c) and the delivery of that amount shall fulfil the requirement for delivery of the security under that clause for all distributors of which the corporation is an agent. Amount where security is for two or more distributors
- (3) The security delivered for two or more distributors, who sell or will be selling recyclable beverage containers while registered, by a corporation that is an agent of the distributors shall be in the amount required under clause 5(2)(c) and the delivery of that amount shall fulfil the requirement for delivery of the security under that clause for all distributors of which the corporation is an agent. Amount where security is for two or more distributors
- (4) A corporation that is an agent of two or more distributors and that delivers the security on their behalf shall provide the Minister with an up-to-date list of the names of all distributors of which the corporation is an agent and with any other information reasonably requested by the Minister regarding those distributors and shall give the Minister written notice of any change to the list and the date of the change not less than thirty days before the change takes place. Names of distributors for whom agent acts
- (5) The security delivered by a corporation that is an agent for two or more distributors shall continue to apply to a distributor whose name is to be removed from the list referred to in subsection (4) until the expiry of thirty days after notice has been given to the Minister of the removal under that subsection. Application of security to distributor leaving agent
- (6) If the name of a distributor is to be removed from a list of distributors, the distributor shall, before the name is removed, deliver to the Minister, where the Minister requires one, a substitute security with the face value required under subsection 5(1) or (2), as may be appropriate. Distributor to deliver new security to Minister on leaving agent

7.(1) Where a distributor sells refillable beverage containers while registered, the security delivered to the Minister in relation to the distributor shall be forfeited if the distributor or the agent of the distributor fails to collect empty refillable beverage containers or to pay the refunds in accordance with the Act and these regulations within fourteen days after the distributor or the agent, as the case may be, is required to do so under the Act and these regulations.

Forfeiture of security re refillable beverage containers

(2) Where a distributor sells recyclable beverage containers while registered, the security delivered to the Minister in relation to the distributor shall be forfeited if the distributor or the agent of the distributor fails to remit or pay deposits for the recyclable beverage containers to the Provincial Treasurer in accordance with the Act and these regulations within fourteen days after the distributor or the agent, as the case may be, is required to do so under the Act and these regulations.

Forfeiture of security re recyclable beverage containers

(3) The security delivered by a corporation that is an agent of two or more distributors shall be forfeited to the extent of its full face value when the security of a distributor that is named on the corporation's list referred to in subsection 6(4) would be forfeited under these regulations.

Idem

(4) Notwithstanding subsection (3), a corporation that is an agent of two or more distributors who sell refillable beverage containers may, with the consent of the Minister, substitute for the face value of a security forfeited under subsection (1) such amount as the Minister considers sufficient to make the payments or reimbursements listed in clauses (5)(a) and (b) in full in relation to the forfeiture of the distributor's security.

Substitution of an amount for forfeited security

(5) Any money recovered on the forfeiture of a security under subsection (1), after deducting the cost of administering the security under subsection 9(8) of the Act, shall be distributed in the following order of priority:

Distribution of money recovered on forfeiture of security

(a) payment or reimbursement in full or, where the money is insufficient, on a *pro rata* basis, to the license holders for paid-out refunds and for deposits on bulking material that relate to the empty refillable beverage containers of the distributor to which the forfeiture relates and for which the license holders have not been paid or reimbursed;

(b) payment of the cost of transporting, recycling and otherwise handling the empty beverage containers after collection from the beverage container depots;

(c) payment of any balance remaining to the Provincial Treasurer, which shall be the property of the Government and shall be paid into the Operating Fund.

(6) Notwithstanding subsection (3), a corporation that is an agent of two or more distributors who sell recyclable beverage containers may, with the consent of the Minister, substitute for the face value of a security forfeited under subsection (2) such amount as the Minister considers sufficient to make the payments referred to in subsection (7).

Substitution of an amount for forfeited security recyclable containers

(7) Any money recovered on the forfeiture of a security under subsection (2), after deducting the cost of administering the security under subsection 9(8) of the Act, shall be distributed in the following order of priority:

Distribution of money recovered on forfeiture of security re recyclable containers

(a) payment or reimbursement in full to the Provincial Treasurer for the deposits for the recyclable beverage containers that have not been paid or remitted to the Provincial Treasurer;

(b) payment of any balance remaining to the registered distributor.

INFORMATION REQUIRED ON BEVERAGE CONTAINERS

8. For the purposes of section 12 of the Act, every beverage in a beverage container that is sold by a distributor or a retailer shall have stamped or printed on the beverage container the wording "Return for Refund" or similar wording.

Information required to be printed or stamped on beverage containers

LICENSES

- 9.** The fee payable to apply for a license, or to apply for the amendment of a license, under section 13 of the Act is \$100 and shall be made payable to the Provincial Treasurer. Application fee
- 10.** (1) A person who wishes to apply for a license under subsection 13(2) of the Act shall Application for the issuance of a license
- (a) file with the Minister a completed application in a form acceptable to the Minister;
 - (b) pay the fee prescribed by section 9; and
 - (c) provide to the Minister
 - (i) such proof of the matters referred to in subsection (2) or (3) as the Minister may require, and
 - (ii) such other information as the Minister may require.
- (2) The Minister may issue a license to the applicant under subsection 13(3) of the Act if the Minister is satisfied that Requirements for issuance of a license
- (a) the applicant has sufficient capital available to pay all refunds that could be requested by the public for empty beverage containers between start-up and the first possible reimbursement of refunds by a distributor or the Provincial Treasurer, and between subsequent reimbursements;
 - (b) the lot on which the applicant proposes to operate the beverage container depot
 - (i) is not less than 1.5 acres in area,
 - (ii) has areas for parking that are, at a minimum, 185 square metres in area, and have hard surface of pavement, concrete, gravel, or asphalt millings, and
 - (iii) has separate traffic lanes for customer vehicles and for transport trucks;
 - (c) there is a building on the lot referred to in clause (b) which meets the requirements of subsection (3); and
 - (d) the applicant should be authorized to operate a beverage container depot at the location proposed in the application having regard to the considerations set out in subsection 13(12) of the Act.
- (3) The building on the lot at which the applicant for a license proposes to operate a beverage container depot shall Building requirements
- (a) be structurally sound;
 - (b) have a beverage container sorting area that
 - (i) has a floor area, at a minimum, of 46 square metres, and
 - (ii) is visible to customers;
 - (c) have an area for customer service;
 - (d) have a beverage container storage area that
 - (i) has a wooden or steel frame and a poured cement floor,
 - (ii) has a ceiling height, at a minimum, of 4.9 metres,
 - (iii) has a floor area, at a minimum, of 111 square metres,
 - (iv) is accessible to vehicles that are loading and unloading empty beverage containers, and
 - (v) is constructed in such a manner that it will keep all empty beverage containers stored therein dry and clean; and
 - (e) has a total floor area, at a minimum, of 232 square metres.
- (4) The Minister may, under subsection 13(3) of the Act, issue a license to an applicant notwithstanding that one or more of the requirements set out in clauses (2)(a) to (c) and subsection (3) are not met by the applicant, or the lot, or the building on the lot, at which the applicant proposes to operate a beverage container depot, where Exception re depots existing on commencement of Act
- (a) the applicant is a person who was deemed to be a license holder under section 34 of the Act on the day that section came into force; and
 - (b) the Minister is satisfied that the applicant should be authorized to operate a beverage container depot at the location proposed in the application having regard to the considerations set out in subsection 13(12) of the Act.
- (5) The Minister may refuse to issue a license under subsection 13(6) of the Act where Refusal to issue license
- (a) the Minister is not satisfied
 - (i) that the applicant meets the requirements of clause (2)(a),

- (ii) that the lot on which the applicant proposes to operate the beverage container depot meets the requirements of clause (2)(b),
- (iii) that the building on the lot referred to in subclause (ii) meets the requirements of clause (2)(c) and subsection (3), or
- (iv) that the applicant should be authorized to operate a beverage container depot at the location proposed in the application having regard to the considerations set out in subsection 13(12) of the Act; or

(b) the applicant has previously been issued a license or deemed to have been issued a license under the Act and the license holder, or an agent of the license holder, violated or failed to comply with a provision of the Act or these regulations.

(6) A license shall be issued on a form provided by the Minister.

Form

(7) A license holder who wishes to apply, under subsection 13(2) of the Act, for the amendment of a license for the purpose of authorizing the license holder to operate the beverage container depot at a new location, shall

Amendment at location beverage container depot on license

- (a) file with the Minister a completed application in a form acceptable to the Minister;
- (b) pay the fee prescribed by section 9; and
- (c) provide to the Minister
 - (i) such proof of the matters referred to in clauses (2)(b) to (d) or in subsection (3) as the Minister may require, and
 - (ii) such other information as the Minister may require.

(8) The Minister may, under subsection 13(3) of the Act, amend the location specified on a license if the Minister is satisfied that the requirements of clauses (2)(b) to (d) and subsection (3) are met in respect of the new location.

Idem

11. (1) Where, at any time subsequent to the issuance of a license, the Minister,

Terms and conditions

- (a) under clause 13(3)(b) of the Act, imposes a term or condition on the license; or
- (b) under subsection 13(4) of the Act, amends, substitutes, or repeals any term or condition imposed on the license,

the Minister shall give notice, in writing, of the imposition of the term or condition, or of the amendment, substitution, or repeal of any term or condition, as the case may be, to the license holder and shall include in the notice a copy of any term or condition that has been imposed, amended or substituted.

(2) The imposition of a term or condition, or the amendment, substitution or repeal of a term or condition, under clause 13(3)(b) or subsection 13(4) of the Act, on the license does not take effect until the notice required by subsection (1) has been served in accordance with these regulations on the license holder.

Imposition, amendment, substitution or repeal of term or condition effective on notice

12. (1) Where the Minister suspends or revokes a license under subsection 13(17) of the Act, the Minister shall give notice, in writing, of the suspension or revocation, as the case may be, and the reasons therefore to the license holder.

Suspension or revocation of a license

(2) The suspension or revocation of a license issued under subsection 13(17) of the Act does not take effect until the notice required by subsection (1) has been served in accordance with these regulations on the license holder.

Suspension or revocation effective on notice

OPERATION OF BEVERAGE CONTAINER DEPOTS

13. (1) A license holder, and the operator of the beverage container depot operated under the license, shall ensure

Operation of beverage container depot, requirements

- (a) that the beverage container depot is kept clean and that broken glass, discarded cardboard and plastic bags and other refuse and debris are collected and properly disposed of;
- (b) that each empty beverage container collected from the beverage container depot by a distributor or an agent of the distributor
 - (i) has had its removable cap removed, if the beverage container is a plastic bottle or a plastic container,

- (ii) has markings that identify the distributor or person who filled the container and that are readable or readable by a bar code scanner or reader, and
- (iii) has no foreign material or free flowing liquid inside the container;
- (c) that there is no foreign material in the bulking container in which any empty beverage container is collected from the beverage container depot by a distributor or an agent of the distributor; and
- (d) that all empty beverage containers and items necessary for bulking the containers are stored indoors.

(2) The holder of a license, and the operator of the beverage container depot operated under the license, shall ensure Sorting of containers

- (a) that empty refillable beverage containers that are collected from the beverage container depot by an agent of two or more distributors are sorted according to the distributor;
- (b) that empty beverage containers that are collected by distributors themselves are sorted according to the distributor that distributed them; and
- (c) that empty recyclable beverage containers that are collected by the agent of two or more distributors are sorted according to colour and composition into not more than 20 different sorts.

COLLECTION BY REGISTERED DISTRIBUTORS

14. (1) A registered distributor or, where applicable, an agent of the registered distributor shall provide the operators of beverage container depots with all bulking containers, shells, pallets and other items necessary for bulking empty refillable beverage containers sold by the registered distributor, and may charge the operators of beverage container depots a fully refundable deposit for each such reusable item. Registered distributor to supply bulking containers, shells and pallets

(2) For the purposes of subsection 18(1) of the Act, the period of time within which a registered distributor or, where applicable, an agent of the registered distributor shall collect empty refillable beverage containers from a beverage container depot following a request is seven business days. Period of time for collection

(3) For the purposes of subsection 18(2) of the Act, a registered distributor, or where applicable, an agent of the registered distributor is required to collect empty refillable beverage containers sold by the registered distributor from a license holder, or agent of the license holder, where the license holder or agent of the license holder has possession of at least 10,000 such containers. Amount of containers that requires collection

(4) For the purposes of subsection 18(4) of the Act, the period of time within which a registered distributor or, where applicable, an agent of the registered distributor shall pay the refund to the license holder is seven business days commencing on the day on which the empty beverage containers to which the refund relate are collected by the registered distributor, or agent, from the beverage container depot operated by the license holder. Period of time for payment of refund

COLLECTION BY THE BEVERAGE CONTAINER COLLECTOR

15. (1) The beverage container collector shall provide the operators of beverage container depots with all bulking containers, shells, pallets and other items necessary for bulking empty recyclable beverage containers sold by registered distributors, and may, with the written consent of the Minister, charge the operators of beverage container depots a fully refundable deposit for each such reusable item. Collector to supply bulking containers, shells and pallets

(2) For the purposes of subsection 20(1) of the Act, the period of time within which the beverage container collector shall collect empty recyclable beverage containers from a beverage container depot following a request is seven business days. Period of time for collection

(3) For the purposes of subsection 20(2) of the Act, the beverage container collector is required to collect empty recyclable beverage containers from a license holder, or the agent of the license holder, where the license holder or agent of the license holder has possession of at least 10,000 such containers. Amount of containers that requires collection

(4) For the purposes of section 21 of the Act, the Minister shall ensure that the license holder is paid the refund and handling fee within seven business days commencing on the day on which the empty beverage containers to which the refund and handling fee relate are collected by the beverage container collector from the beverage container depot operated by the license holder.

Period of time for
payment of refund

(5) For the purposes of section 21 of the Act, the amount of the handling fee for a beverage container depot to handle beverage containers approved under the Act is \$0.036 per container.

Handling fee

SERVICE OF NOTICES

16. (1) Any notice required to be given by the Minister under subsection 4(3) or (5), subsection 11(1) or subsection 12(1) is deemed to be sufficiently served

When notice
sufficiently served

- (a) upon a copy of the notice being personally served on the person to whom it is directed;
- (b) upon a copy of the notice being sent by facsimile or by other electronic means to the person to whom it is directed and an acknowledgement of receipt being received; or
- (c) five days after a copy of the notice is sent by mail addressed to the person to whom it is directed at the last known address for that person.

(2) Where the person to be served with a notice is a corporation, service of the notice on a director, officer or recognized agent of the corporation in accordance with subsection (1) is deemed to be service of the notice on the corporation for the purposes of this Act.

Service on director
or officer of
corporation

(3) Where it is impractical for any reason to serve a notice in a manner referred to in subsection (1), an *ex parte* application may be made to a judge of the Supreme Court who may make an order for substituted service providing for such steps to be taken to bring the matter to the attention of the person to be served.

Order for
substituted service

SALE OF CONTAINERS WITH CONNECTING DEVICES

17. No registered distributor shall sell a beverage in beverage containers that are

Restriction

- (a) connected by plastic rings; or
 - (b) connected by a connecting device, other than plastic rings,
- unless the plastic rings or other connecting device is biodegradable or photodegradable.

COMMENCEMENT

Commencement

18. (1) Subject to subsection (2), these regulations come into force on April 30, 2008.

(2) Sections 8, 13, 14, 15 and 17 of these regulations come into force on May 3, 2008.

Idem

EXPLANATORY NOTES

SECTION 1 defines the word “Act” for the purposes of these regulations.

SECTION 2 sets out the liquids that are excluded from the definition of “beverage” in the Act.

SECTION 3 states that the Minister must give a distributor a notice when the Minister revokes the approval of a type of beverage container distributed by the distributor. The revocation does not take effect until the notice has been served in accordance with these regulations.

SECTION 4 provides that the Minister may register, in writing, a distributor upon application if the distributor is registered under New Brunswick's *Beverage Containers Act*. In addition, the section authorizes the Minister, in writing, at the time of registration or at a later date, to impose terms and conditions on the registration.

SECTIONS 5 to 7 govern the amount, form, delivery, forfeiture and distribution of any security required by the Minister as a condition of registering a distributor.

SECTION 8 sets out the information that must be stamped or printed on every beverage container that is sold by a distributor or retailer.

SECTION 9 outlines the fee payable for a license or the amendment of a license.

SECTION 10 sets out the requirements pertaining to the making of an application for a license and the issuance of a license.

SECTION 11 provides that when issuing a license or amending a license to operate a beverage container depot the Minister may impose terms and conditions at that time or at a later date upon notification to the applicant.

SECTION 12 provides that the Minister may suspend or revoke a license and shall give written notice to the license holder stating the reasons for the suspension or revocation.

SECTION 13 sets out the requirements for the operation of a beverage container depot and the sorting of the beverage containers by a license holder or the operator of the depot.

SECTION 14 requires a registered distributor to supply the operators of beverage container depots with bulking containers, shells, pallets and other items necessary for bulking empty refillable beverage containers sold by the registered distributor. The section also requires a registered distributor to collect empty refillable beverage containers from a depot within seven business days after receiving a request by the operator of the depot if the operator has collected 10,000 empty beverage containers.

SECTION 15 requires a beverage container collector to supply the operators of the beverage container depots with bulking containers, shells, pallets and other items necessary for bulking empty recyclable beverage containers. The section also requires the beverage container collector to collect empty recyclable beverage containers from the depot within seven business days after receiving a request by the operator of the depot if the operator has collected 10,000 empty beverage containers.

SECTION 16 states when a notice that is required to be given by the Minister under these regulations is sufficiently served.

SECTION 17 provides that no registered distributor shall sell beverage containers that are connected by plastic rings or another connecting device unless the plastic rings or connecting device is biodegradable or photodegradable.

SECTION 18 provides for the commencement of these regulations.

EC2008-275

**BEVERAGE CONTAINERS ACT
RECYCLABLE BEVERAGE CONTAINER DEPOSIT
REGULATIONS**

Pursuant to section 33 of the *Beverage Containers Act* R.S.P.E.I. 1988, Cap. B-2.1, Council made the following regulations:

1. In these regulations, "Act" means the *Beverage Containers Act* R.S.P.E.I. 1988, Cap. B-2.1. Act, defined

2. The Provincial Treasurer may delegate to any officer or employee of the Provincial Treasury any function of the Provincial Treasurer under these regulations or under subsection 10(8) of the Act. Delegation by
Provincial Treasurer

3. (1) On or before the twentieth day of each calendar month, every registered distributor shall Requirement to file
a return and make
remission on a
monthly basis
 - (a) make a return to the Provincial Treasurer in such form as may be approved by the Provincial Treasurer respecting
 - (i) the deposits that are required under subsection 10(4) of the Act to be remitted by the registered distributor to the Provincial Treasurer for the recyclable beverage containers sold by the registered distributor during the immediately preceding calendar month, and
 - (ii) the deposits that are required under subsection 10(6) of the Act to be paid by the registered distributor to the Provincial Treasurer for the recyclable beverage containers that were given away by the registered distributor during the immediately preceding calendar month;
 - (b) remit to the Provincial Treasurer with the return the deposits referred to in subclause (a)(i); and
 - (c) pay to the Provincial Treasurer with the return the deposits referred to in subclause (a)(ii).

- (2) Notwithstanding subsection (1), a registered distributor shall, at any time required by the Provincial Treasurer, Returns and
remissions made on
request of
Provincial Treasurer
 - (a) make a return to the Provincial Treasurer for such period of time as the Provincial Treasurer may determine respecting
 - (i) the deposits that are required under subsection 10(4) of the Act to be remitted by the registered distributor to the Provincial Treasurer for the recyclable beverage containers sold by the registered distributor during such period, and
 - (ii) the deposits that are required under subsection 10(6) of the Act to be remitted by the registered distributor to the Provincial Treasurer for the recyclable beverage containers that are given away by the registered distributor during such period; and
 - (b) remit to the Provincial Treasurer with the return the deposits referred to in subclause (a)(i); and
 - (c) pay to the Provincial Treasurer with the return the deposits referred to in subclause (a)(ii).

- (3) Where a registered distributor has not sold or given away any beverages in recyclable beverage containers during the immediately preceding calendar month, the registered distributor shall make a return in accordance with subsection (1) setting forth that fact. Return where no
sales

4. (1) Every registered distributor shall keep and maintain books of account, records and documents sufficient to furnish the Provincial Treasurer with the necessary particulars of Books and records
required
 - (a) the number of each of the following types of recyclable beverage containers that are delivered by the registered distributor into the province:
 - (i) the beverage containers that are filled with liquor and that have a capacity of 500 millilitres or less,
 - (ii) the beverage containers that are filled with liquor and that have a capacity of more than 500 millilitres,
 - (iii) the beverage containers that are filled with a beverage other than liquor;

- (b) the amount of the deposits that are payable for each of the types of recyclable beverage containers referred to in subclauses (a)(i), (ii) and (iii) that are sold by the registered distributor; and
- (c) the amount of the deposits collected for each of the types of recyclable beverage containers referred to in subclauses (a)(i), (ii) and (iii) that are sold by the registered distributor;
- (d) the number of each of the following types of recyclable beverage containers that are given away by the registered distributor:
- (i) the beverage containers that are filled with liquor and that have a capacity of 500 millilitres or less,
 - (ii) the beverage containers that are filled with liquor and that have a capacity of more than 500 millilitres,
 - (iii) the beverage containers that are filled with a beverage other than liquor;
- (e) the amount of the deposits that are payable for each of the types of recyclable beverage containers referred to in subclauses (f)(i), (ii) and (iii) that are given away by the registered distributor; and
- (f) the disposition of the deposits for recyclable beverage containers that are due from or collected by the registered distributor.
- (2) Every registered distributor shall preserve all books of account, records and documents until such time as the Provincial Treasurer may authorize their destruction. Preservation and destruction
- 5.** Where a registered distributor has made sales of beverages in recyclable beverage containers on a charge basis without collecting the deposits for the recyclable beverage containers at the time of sale, the registered distributor shall report such deposits in the monthly return of the registered distributor. Deposit due on credit sales
- 6.** For the purposes of subsection 10(9) of the Act, the prescribed rate of interest payable on overdue deposits is 1.5 per cent per month. Interest rate applicable
- 7.** (1) A registered distributor may apply under subsection 10(8) of the Act for a refund of a deposit paid by the registered distributor to the Provincial Treasurer by filing an application for the refund in the manner set out in subsection (2) within four years of the date the wrongful payment or overpayment was made by the registered distributor. Refunds
- (2) An application for a refund of an amount paid as a deposit for a recyclable beverage container shall be made, in writing, to the Provincial Treasurer and shall include *Idem*
- (a) the reason for requesting the refund; and
 - (b) such information or documents, including invoices and receipts, as the Provincial Treasurer may require, respecting the payment of the amount of the deposit for which the refund is requested.
- (3) Any information or documents required by the Provincial Treasurer in respect of an application under this section shall be provided or presented by the applicant in such form or manner as the Provincial Treasurer may require. *Idem*
- (4) Notwithstanding subsection (1), where an amount is paid as a deposit for a recyclable beverage container and it is subsequently determined that the amount was paid under a mistake in law, no action shall be maintainable against the Government for return of the amount so paid. Payment under mistake of law
- 8.** In making an assessment pursuant to the Act, the Provincial Treasurer shall not consider a period prior to the sixty months immediately preceding the month in which the assessment is made, except where there is a reasonable appearance of wilful default or fraud to the Provincial Treasurer. Assessment period
- 9.** These regulations come into force on May 3, 2008. Commencement

EXPLANATORY NOTES

SECTION 1 defines the word “Act” as it applies to these regulations.

SECTION 2 provides that the Provincial Treasurer may delegate his or her functions under these regulations and certain provisions of the Act to employees and officers of the Provincial Treasury.

SECTION 3 requires every registered distributor to file a return and remit the deposits payable for the recyclable beverage containers sold or given away by the registered distributor during the immediately preceding calendar month or as required to the Provincial Treasurer.

SECTION 4 requires every registered distributor to keep and maintain books of account, records and documents sufficient to furnish the Provincial Treasurer with details concerning the numbers of certain types of recyclable beverage containers that are delivered into the province by the registered distributor, and the deposits that are collected and payable on the recyclable beverage containers that are sold or given away by the registered distributor.

SECTION 5 provides that a registered distributor shall include any sales made on a charge basis in the monthly return made by the registered distributor to the Provincial Treasurer.

SECTION 6 sets out the prescribed rate of interest that is payable on overdue deposits.

SECTION 7 provides that a registered distributor has 4 years to file an application for a return of any wrongful payment or overpayment made by the registered distributor to the Provincial Treasurer. An application must include all documents, invoices and receipts that the Provincial Treasurer may require to decide on the wrongful payment or overpayment of deposits.

SECTION 8 sets out the assessment period during which the Provincial Treasurer may assess a registered distributor.

SECTION 9 provides for the commencement of these regulations.

EC2008-276

ENVIRONMENTAL PROTECTION ACT LITTER CONTROL REGULATIONS AMENDMENT

Pursuant to section 25 of the *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9, Council made the following regulations:

1. Section 1 of the *Environmental Protection Act Litter Control Regulations* (EC697/91) is amended

(a) by the revocation of clauses (a) to (e); and

(b) by the repeal of clauses (g) to (n).

2. Sections 2 to 6 of the regulations are revoked.

3. Section 8 of the regulations is revoked.

4. These regulations come into force on May 3, 2008.

EXPLANATORY NOTES

SECTIONS 1 to 3 revoke provisions of the current regulations respecting beverage containers that are no longer needed with the enactment of the new *Beverage Containers Act*.

SECTION 4 provides for the commencement of these regulations.

EC2008-277

EXECUTIVE COUNCIL ACT
MINISTER OF ENVIRONMENT, ENERGY AND FORESTRY
AUTHORITY TO ENTER INTO AN AGREEMENT
(MEMORANDUM OF UNDERSTANDING ON
ENVIRONMENTAL COOPERATION IN ATLANTIC CANADA)
WITH
THE GOVERNMENT OF CANADA
AND THE
GOVERNMENTS OF NEW BRUNSWICK
NEWFOUNDLAND AND LABRADOR
AND
NOVA SCOTIA

Pursuant to clauses 10(a) and (b) of the *Executive Council Act* R.S.P.E.I. 1988, Cap. E-12 Council authorized the Minister of Environment, Energy and Forestry to enter into a Memorandum of Understanding with the Government of Canada as represented by the Minister of Environment Canada; the Governments of New Brunswick and Nova Scotia, as represented by their respective Ministers responsible for the Environment; and the Government of Newfoundland and Labrador as represented by its Minister of Intergovernmental Affairs, to establish principles of cooperation to preserve, protect and enhance the environment in Atlantic Canada, such as more particularly described in the draft agreement.