



WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation <input checked="" type="checkbox"/>	Decision Request <input checked="" type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Mayor Zebian and Members of Council

Submitted by: _____
Mark Phillips, Chief Administrative Officer

Date: June 9, 2026 Committee of the Whole

Subject: Tregothic Marsh Body

LEGISLATIVE AUTHORITY

Nova Scotia Municipal Government Act

Tregothic Marsh Body Land Use Regulations

Nova Scotia Agricultural Marshland Conservation Act

RECOMMENDATION or DECISION REQUEST

It is recommended for Committee of the Whole to recommend to Council that:

Council direct the Chief Administrative Officer or designate to request an amendment to the Tregothic Marsh Body Land Use Regulations made under the Agricultural Marshland Conservation Act by the Province of Nova Scotia to remove items (b) residential or commercial structures and (d) new ponds for non-agricultural uses from the list of non-permitted uses found in article 3 of the regulations

Further

That the Chief Administrative Officer or designate represent the Municipality at future Tregothic Marsh Body Meetings

BACKGROUND

The Tregothic Marsh Body (TMB) is one of 80 plus bodies in the Province representing the views of property owners (members) which are located within the various Marsh areas within the Province.

Marsh bodies are consulted by the Provincial Marshland Commission and its' Marshland Administrator when a variance application is received by the Department of Agriculture for a development or use of lands within the marshland impacted. Marsh bodies are asked to comment on variance applications with the Marshland Administrator and provide feedback. The administrator will review the applications, feedback and regulations when deciding on the application.

The Marsh Bodies have the ability to request, through the Nova Scotia Marsh Commission, changes to regulations governing the respective marshlands. The TMB requested changes to the regulations in 2022 and were approved and made effective December 7, 2022.

- 3) For the purposes of subsection (1), non-permitted works, uses or developments include all of the following. Items (B) and (D) were added in 2022.
- (a) land-fill sites or dumps of any kind;
 - (b) *residential or commercial structures;*
 - (c) drilled wells;
 - (d) *new ponds for non-agricultural uses;*
 - (e) hunting without permission.

Property ✓	Public Opinion ✓	Environment ✓	Social ✓	Economic ✓	Councillor Activity <input type="checkbox"/>
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DISCUSSION

The regulations now have added restrictions to non-exempt areas within the TMB that were not present before December 2022. The TMB map and exempt area are provided for Council's

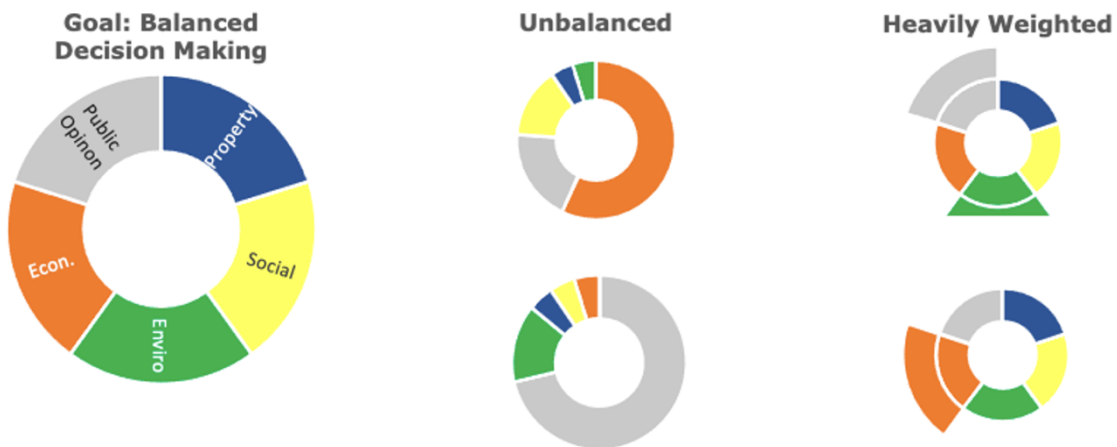
ALTERNATIVES

- Council may choose not to comment on the matter leaving the regulations “as is”.
- Council may choose to support the motion in principle but assign a member of Council to the TMB

ATTACHMENTS

- Tregothic Marsh Body Land Use Regulations
- Tregothic Marsh Map (including exempt areas)
- Nova Scotia Agricultural Marshland Conservation Act
- Brighter Communities Planning and Consulting Letter to Nova Scotia Department Agriculture
- Tregothic Marshland CAO Report February 2023

Council has been provided with a reference taken from the Meeting and Committee Procedural Policy , Appendix C “Decision Making by Council and Committee of the Whole” as a reminder of the principles highlighted for good decision making.



Tregothic Marsh Body Land Use Regulations
made under clause 14(e) of the
Agricultural Marshland Conservation Act
S.N.S. 2000, c. 22
N.S. Reg. 266/2022 (effective December 7, 2022)

Table of Contents

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

[Click here to go to the text of the regulations.](#)

[Title](#)
[Uses and activities](#)
[Appendix “A”](#)

Title

1 These regulations may be cited as the *Tregothic Marsh Body Land Use Regulations*.

Uses and activities

- 2** (1) No person shall construct works or use or develop lands within, on, or affecting the Tregothic Marshland sections in any way that is not conducive to and in conformity with sound agricultural purposes and practices.
- (2) For the purposes of subsection (1), uses and activities deemed to be conducive to and in conformity with sound agricultural purposes and practices include all of the following:
- (a) the tilling of soil;
 - (b) the planting and harvesting of crops;
 - (c) the growing of grains and forage crops for livestock feed;
 - (d) the growing of grass and legume crops;
 - (e) the growing of food crops for human consumption;
 - (f) pest and weed control that will not negatively impact the water and drainage system on the marshland;

- (g) pre-existing exemptions, non-conforming uses, only where they presently exist
 - (i) Sewage Lagoon,
 - (ii) Areas of Exemption as noted in Appendix A (Tregothic Marshland Map).
- (3) For the purposes of subsection (1), non-permitted works, uses or developments include all of the following:
 - (a) land-fill sites or dumps of any kind;
 - (b) residential or commercial structures;
 - (c) drilled wells;
 - (d) new ponds for non-agricultural uses;
 - (e) hunting without permission.

Appendix “A”

Legislative History Reference Tables

Tregothic Marsh Body Land Use Regulations
Agricultural Marshland Conservation Act

N.S. Reg. 266/2022

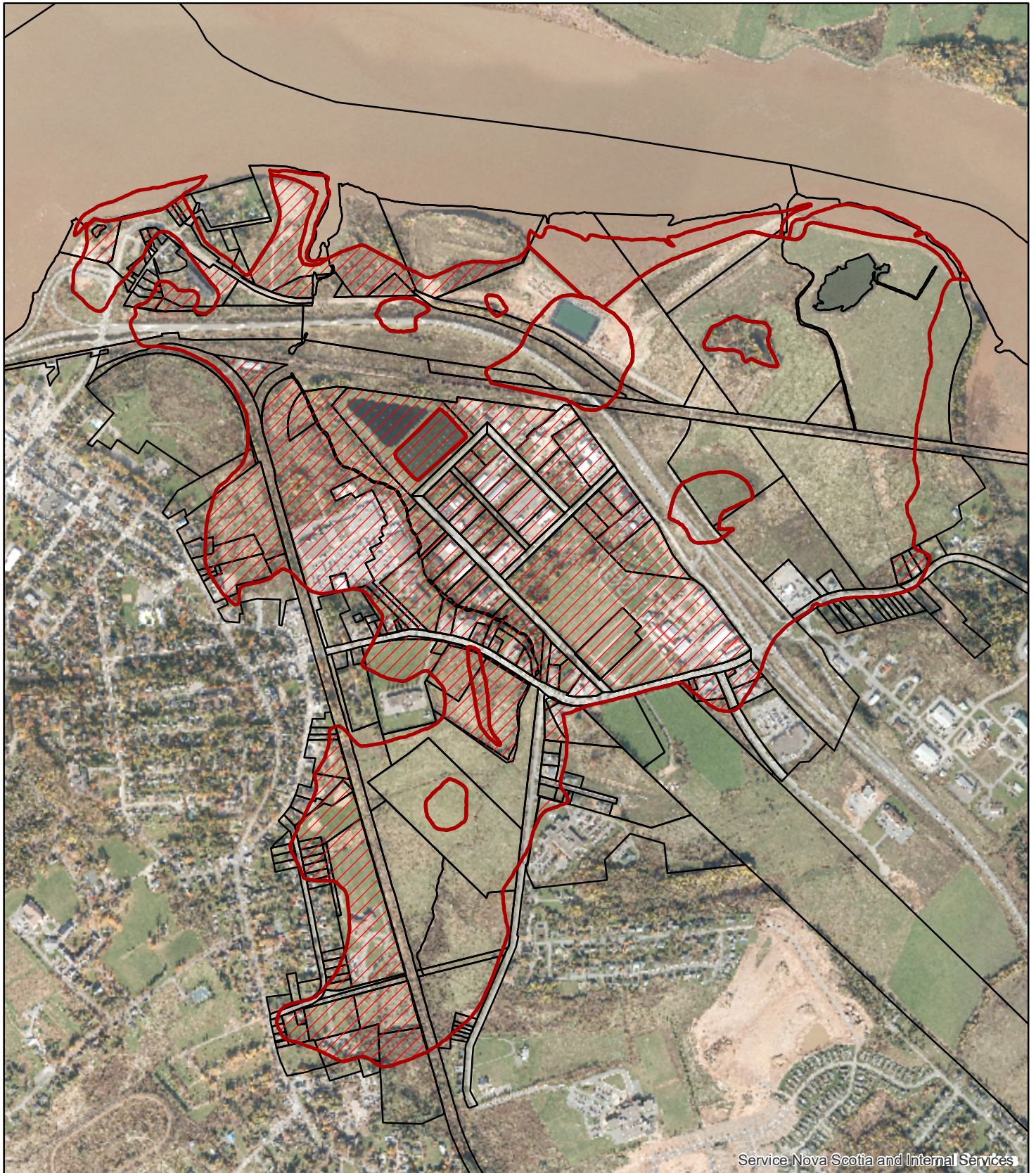
Note: The information in these tables does not form part of the regulations and is compiled by the Office of the Registrar of Regulations for reference only.

Source Law

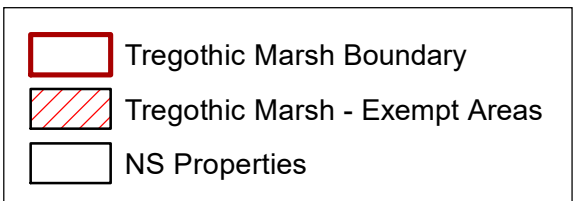
The current consolidation of the *Tregothic Marsh Body Land Use Regulations* made under the *Agricultural Marshland Conservation Act* includes all of the following regulations:

N.S. Regulation	In force date*	How in force	Royal Gazette Part II Issue
266/2022	Dec 7, 2022	date filed (not filed within 7 days)	Dec 16, 2022

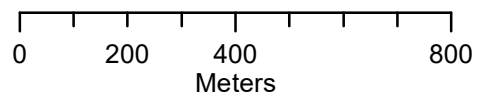
Tregothic Marsh - NS68 Exempt Areas



Service Nova Scotia and Internal Services



Data: NSGC
NSDA



Agricultural Marshland Conservation Act

CHAPTER 22 OF THE ACTS OF 2000

as amended by

2001, c. 1, ss. 2, 3; 2001, c. 6, s. 96; 2004, c. 38, s. 26;
2009, c. 7



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CHAPTER 22 OF THE ACTS OF 2000
amended 2001, c. 1, ss. 2, 3; 2001, c. 6, s. 96; 2004, c. 38, s. 26;
2009, c. 7

**An Act for the Conservation
of Agricultural Marshland**

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

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Short title

1 This Act may be cited as the *Agricultural Marshland Conservation Act*. 2000, c. 22, s. 1.

Interpretation

2 In this Act,

(a) “Commission” means the Agricultural Marshlands Conservation Commission;

(b) “development” includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure or a change or alteration in the use made of lands or structures;

(c) “marsh body” means a marsh body incorporated pursuant to this Act or continued by this Act;

(d) “marshland” means land that is

(i) subject to periodic tidal flooding, and

- (ii) designated by the Minister as marshland pursuant to this Act or Chapter 274 of the Revised Statutes, 1989, the *Marshland Reclamation Act*;
- (e) “Marshland Administrator” means the Marshland Administrator appointed pursuant to this Act and includes a person acting under the supervision and direction of the Marshland Administrator;
- (f) “marshland section” means an area of marshland that may be effectively dealt with as a unit in the construction and maintenance of works;
- (g) “Minister” means the Minister of Agriculture;
- (h) “rates” means rates levied pursuant this Act, including interest on rates;
- (i) “works” includes dykes, aboiteaux, breakwaters, canals, ditches, drains, roads and other structures, excavations and facilities for the conservation, development, improvement or protection of marshland to a standard appropriate for agricultural purposes. 2000, c. 22, s. 2; 2009, c. 7, s. 1.

Supervision and management

3 The Minister has the general supervision and management of this Act. 2000, c. 22, s. 3.

Powers of Minister

4 (1) Subject to the approval of the Governor in Council, the Minister may construct works to develop marshland for agricultural purposes.

(2) The Minister may reconstruct, repair, operate and maintain any works for the protection, drainage and improvement of marshland for agricultural purposes.

(3) The costs and expenses incurred as a result of the activities carried out pursuant to subsections (1) and (2) shall be paid from moneys appropriated annually by the Legislature.

(4) For the purpose of carrying out the activities authorized by this Section, the Minister may

- (a) enter into agreements with the Government of Canada, the government of any other province of Canada, any department, body or person;
- (b) purchase, dispose of or rent real and personal property;
- (c) engage all necessary employees, consultants, contractors or other persons;
- (d) take or authorize any person to take any action that may be necessary for carrying out the purpose of this Act. 2000, c. 22, s. 4.

Designations

5 (1) The Minister may, by order, designate and fix the boundaries of any marshland section for the purpose of carrying out any works or projects pursuant to this Act.

(2) A marshland section designated pursuant to subsection (1) may include any lands adjacent to the marshland that the Minister considers necessary for the construction and maintenance of any works.

(3) Where the designation of a marshland section has been made pursuant to this Section, the Minister shall

(a) publish a notice containing a description of the marshland section in the Royal Gazette;

(b) deposit a description of the marshland section in the office of the registrar of deeds for the registration district in which the marshland section is situate or where the marshland section is located in one or more parcels of land registered pursuant to the *Land Registration Act*, record the legal description in the register or registers established for that parcel or those parcels pursuant to that Act; and

(c) give notice of the designation and a description of the marshland section to the owner of the marshland section. 2000, c. 22, s. 5; 2001, c. 6, s. 96; 2004, c. 38, s. 26.

Effect of designation

6 Any area designated by the Minister as a marshland section pursuant to Section 5 is marshland for the purpose of this Act. 2000, c. 22, s. 6.

**AGRICULTURAL MARSHLAND
CONSERVATION COMMISSION****Composition, remuneration and staff**

7 (1) The Governor in Council may appoint an Agricultural Marshland Conservation Commission consisting of not more than five members.

(2) The Governor in Council shall appoint one member to be the Chair of the Commission.

(3) The Governor in Council shall appoint, from the public service of the Province, a suitable person to be the Secretary of the Commission.

(4) A majority of members of the Commission constitutes a quorum.

(5) Each member of the Commission shall be paid such remuneration as determined by the Governor in Council.

(6) Each member of the Commission shall be reimbursed as determined by the Governor in Council for reasonable travel and other expenses incurred by that member in carrying out the duties of a member of the Commission.

(7) Each member of the Commission holds office for a period of up to three years unless the appointment is revoked and is eligible for re-appointment.

(8) A vacancy on the Commission does not impair the ability of the Commission to act. 2000, c. 22, s. 7.

Duties of Commission

8 The Commission shall

(a) advise the Minister on matters related to the conservation and protection of marshland and its development and maintenance;

(b) hear appeals pursuant to this Act;

(c) study and examine proposals for the construction, reconstruction, recondition, repair, maintenance, conduct or operation of works and make recommendations to the Minister;

(d) approve rules made by a marsh body respecting works and land within a marshland section; and

(e) perform such further or other duties as may be assigned to it by this Act or the regulations. 2000, c. 22, s. 8.

Expenses

9 The administration expenses of the Commission are administration expenses of the Department of Agriculture. 2000, c. 22, s. 9; 2009, c. 7, s. 2.

MARSHLAND ADMINISTRATOR

Appointment and duties

10 The Minister shall appoint from the public service of the Province a suitable person to be the Marshland Administrator who shall perform such duties as are imposed by this Act or the regulations. 2000, c. 22, s. 10.

MARSH BODIES

Incorporation of marsh bodies

11 (1) The owners of marshland in any marshland section may petition the Commission requesting that they be incorporated as a marsh body for that marshland section.

(2) The petition shall set forth

(a) the boundaries and size of the marshland section;

(b) the names and addresses of all persons believed to be, after due inquiry, the owners of marshland within the marshland section;

(c) the approximate amount of marshland owned by each owner within the marshland section;

(d) the proposed name of the marsh body; and

(e) the names of not more than nine persons to be the provisional executive committee of the marsh body.

(3) Subject to subsection (4), where the Minister is satisfied that

(a) the petition is signed by not less than two thirds of the owners of marshland within the marshland section;

(b) the persons signing the petition are the owners of not less than one half of the marshland within the marshland section; and

(c) the Commission recommends that the owners be constituted as a marsh body,

the Minister may, by issuing a certificate in a form prescribed by the regulations, constitute the owners of land within the marshland section as a body corporate under the name set out in the certificate.

(4) Except in exceptional circumstances, a marsh body may not be incorporated for any marshland other than a marshland section, but in such circumstances a certificate of incorporation may be issued for marshland that comprises less than a marshland section or that comprises more than one marshland section.

(5) A certificate of incorporation issued pursuant to this Act shall be published in the Royal Gazette.

(6) Each marsh body incorporated pursuant to Chapter 274 of the Revised Statutes, 1989, the *Marshland Reclamation Act*, and in existence immediately before the coming into force of this Act is continued as a body corporate with the same powers and functions as a marsh body incorporated pursuant to this Act. 2000, c. 22, s. 11.

Membership of bodies

12 (1) Every person who is an owner of marshland in a marshland section is a voting member of the marsh body incorporated for the marshland.

(2) A member of a marsh body may, by instrument in writing filed with the secretary of the marsh body, nominate another person who is a tenant, occupant or manager of the marshland owned by the member to represent the member at meetings of members of the marsh body.

(3) A person nominated is, until the nomination is rescinded, a member of the marsh body and, without restricting the generality of the foregoing, has, at meetings of members of the marsh body, all the rights and privileges of the member represented and is eligible for election to and to serve as a member of the executive committee of the marsh body.

(4) At any meeting of the marsh body, a member that is a corporation may vote in the manner prescribed by the by-laws of the marsh body. 2000, c. 22, s. 12.

Variation of boundaries

13 (1) The Minister may vary the boundaries of a marshland section for which a marsh body is incorporated by adding marshland to the section or excluding marshland from the section where

(a) the Commission recommends that the Minister make the variation; and

(b) the Minister is satisfied that

(i) a resolution requesting the variation has been passed at a general or special meeting of the members of the marsh body by a vote of not fewer than two thirds of the members of the marsh body present at the meeting, and

(ii) the owners of not less than two thirds of the marshland proposed to be added or excluded favour the variation.

(2) Where the Minister varies the boundaries of a marshland section for which a marsh body was incorporated,

(a) each owner of marshland added to the marshland section is a member of the marsh body;

(b) any marshland added to the marshland section is subject to this Act;

(c) each owner of marshland excluded from the marshland section ceases to be a member of the marsh body if, as a result of the variation, the owner ceases to own any land in the marshland section; and

(d) any marshland excluded from the marshland section ceases to be subject to this Act.

(3) Where a variation is made pursuant to this Section, the Minister shall insert a notice containing a description of the area in of the Royal Gazette. 2000, c. 22, s. 13.

Powers of marsh bodies

14 A marsh body may

- (a) acquire, use, sell and lease real and personal property;
- (b) construct, reconstruct, recondition, repair, maintain, conduct and operate works;
- (c) enter into agreements with the Minister or other persons for the construction, reconstruction, reconditioning, repairing, maintenance, conduct or operation of works;
- (d) make by-laws not inconsistent with this Act for the regulation of its business and affairs;
- (e) subject to the approval of the Commission, make rules respecting works and land within or affecting the marshland section;
- (f) raise money for its purposes by borrowing or by the levying of rates pursuant to this Act;
- (g) prepare a mission or an objectives statement;
- (h) do and perform all other acts and things incidental or conducive to the attainment of its objects. 2000, c. 22, s. 14.

Executive Committee

15 (1) Each marsh body shall have an executive committee.

(2) The executive committee consists of such number of members of the marsh body as are prescribed by the by-laws of the marsh body.

(3) The executive committee has the management and direction of the business and affairs of the marsh body. 2000, c. 22, s. 15.

Execution of document

16 All documents to which a marsh body is a party shall be executed on behalf of the marsh body by the chair and the secretary of the executive committee of the marsh body or by such members of the executive committee as the executive committee may authorize. 2000, c. 22, s. 16.

Provisional executive committee

17 (1) Those persons who are, in a petition requesting the incorporation of a marsh body, named as the provisional executive committee of the marsh body constitute the provisional executive committee of the marsh body and are the first executive committee of the marsh body.

(2) The members of the provisional executive committee hold office and are the executive committee of the marsh body until their successors are elected pursuant to the by-laws of the marsh body.

(3) The provisional executive committee shall elect from their number a chair and a secretary.

(4) The provisional executive committee shall call an organization meeting of the members of the marsh body, not later than three months from the date of publication of the certificate of incorporation.

(5) At the organization meeting, by-laws of the marsh body shall be adopted and an executive committee consisting of the number of persons prescribed by the by-laws shall be elected.

(6) A member of the executive committee elected at a general meeting of the marsh body holds office for a term as prescribed by the by-laws and may be re-elected. 2000, c. 22, s. 17.

Chair and secretary of executive committee

18 (1) The members of the executive committee of a marsh body shall, at their first meeting after the organization meeting of the marsh body and, after each general meeting, elect one of their number to be chair of the executive committee.

(2) The chair of the executive committee is also the chair of the marsh body and shall preside over meetings of the executive committee and the marsh body.

(3) At the same meeting, the executive committee of a marsh body shall elect a secretary.

(4) The secretary of the executive committee is also the secretary of the marsh body. 2000, c. 22, s. 18.

Filling of vacancies

19 When a vacancy occurs on the executive committee of a marsh body, the remaining members may appoint a successor to the member whose office becomes vacant, and the person appointed holds office until the next general meeting of the marsh body, when the vacancy shall be filled for the unexpired portion of the term. 2000, c. 22, s. 19.

Frequency of meetings

20 The executive committee of a marsh body shall meet as frequently as may be necessary to attend to the business and affairs of the marsh body, and shall be convened by the chair of the executive committee at any time when at least two members of the marsh body request the meeting in writing. 2000, c. 22, s. 20.

Annual report

20A Within ninety days after the end of each calendar year, the executive committee of a marsh body shall meet and submit to the Commission a report respecting the activities of the marsh body during that calendar year. 2009, c. 7, s. 3.

Quorum

21 A majority of the members of the executive committee of a marsh body constitutes a quorum. 2000, c. 22, s. 21.

Fiscal year

22 The financial year of a marsh body shall be fixed by the by-laws of the marsh body. 2000, c. 22, s. 22.

Meetings of members of body

23 (1) There shall be general meetings of the members of a marsh body as prescribed by the by-laws of the marsh body and at a time and place determined by the executive committee of the marsh body.

(2) A special meeting of the members of the marsh body may be called and held in the manner prescribed by the by-laws of the marsh body. 2000, c. 22, s. 23.

Voting rights

24 (1) At an organization meeting and at any other meeting of a marsh body within one year after its incorporation each member of the marsh body may vote.

(2) Notwithstanding subsection (1), a member may not vote at a meeting of the marsh body if, after one year from the date of its incorporation, all rates levied upon the member's land, pursuant to this Act, prior to one year before the date of the meeting have not been paid. 2000, c. 22, s. 24.

Notice of time and place of meeting

25 The chair or secretary of the executive committee of a marsh body shall give notice of the time and place of each general or special meeting of the marsh body by mailing a notice to each owner at the owner's last known address at least ten days before the date of the meeting. 2000, c. 22, s. 25.

Report of executive committee

26 The executive committee of a marsh body shall, at each general meeting of the marsh body, present a report of its administration of the affairs of the marsh body and an audited financial statement covering its administration since the last general meeting. 2000, c. 22, s. 26.

Auditor

27 (1) The members of a marsh body shall, at the organization meeting and at each general meeting of the marsh body, appoint an auditor or auditors who shall examine the accounts of the marsh body.

(2) The auditor shall have free access at all times to the books, accounts and vouchers of the marsh body and may require from the officers and sec-

retary of the marsh body any information and explanation necessary for the performance of the duties of the auditor.

(3) The auditor may be paid for services such compensation as the executive committee of the marsh body determines.

(4) The executive committee of the marsh body shall publish the auditor's report and provide each member with a copy of the report. 2000, c. 22, s. 27.

Estimates and reserve fund

28 (1) The executive committee of a marsh body shall annually prepare estimates of the amount required for the purposes of the marsh body for the ensuing year, making allowances for losses and expenses that may occur in the collection of rates pursuant to this Act and for rates that may not be collected or collectable, and shall present the estimates to a general meeting of the marsh body for approval of the marsh body.

(2) In preparing its estimates, the executive committee may make provision for the raising of an amount that is not less than one per cent of the value at which all marshland within the marshland section is assessed for the purpose of levying rates pursuant to this Act to be placed in a special reserve fund.

(3) The executive committee may invest the special reserve fund in investments authorized by the *Trustee Act*.

(4) The special reserve fund may be used only for the payment of the cost of extraordinary work and no withdrawals shall be made from it without the approval in writing of the Commission. 2000, c. 22, s. 28.

ASSESSMENT AND RATING

Preparation of lists and valuations

29 The executive committee of a marsh body shall

(a) in such manner as is prescribed by the regulations, prepare and make available for inspection by the owners an assessment list containing the name of each person who is, the owner of marshland for which the marsh body was incorporated, the owner's address, the number of hectares owned by the owner; and

(b) establish the value at which the land is assessed by the executive committee for the purpose of levying rates pursuant to this Act. 2000, c. 22, s. 29.

Right to appeal

30 (1) Any person complaining of being wrongfully inserted or omitted in an assessment list may appeal to the executive committee of the marsh body.

(2) An appeal may be taken by giving notice of the appeal to the secretary of the executive committee within thirty days after the assessment list was made available for inspection.

(3) The executive committee, for the purpose of an appeal, may examine witnesses on oath or affirmation, administered by the chair of the committee, and the person appealing or any person interested in the appeal may call and examine witnesses on oath.

(4) The executive committee may, on an appeal or on its own motion,

(a) confirm or vary the number of hectares owned by any person;

(b) confirm or vary the value per hectare at which the land is assessed;

(c) add to the assessment list the name and assessment of any person improperly left off the assessment list if the person has been given notice of the addition and has had a reasonable opportunity to be heard; or

(d) strike off the assessment list the name and assessment of any person improperly entered. 2000, c. 22, s. 30.

Certification of lists

31 (1) The secretary of the executive committee of a marsh body shall certify that the assessment list was approved by the executive committee, and it shall be open to inspection at the office of the secretary by any owner of land within the marshland section.

(2) The assessment list after being certified binds all owners assessed on the list. 2000, c. 22, s. 31.

Rates

32 (1) The executive committee of a marsh body may, no later than April 15th in each year, levy a rate on each owner of land included in the marsh section for which the marsh body was incorporated in such an amount that the aggregate of all rates so levied is sufficient to raise the amount estimated by the executive committee as the amount of money required for the purposes of the marsh body for the ensuing year.

(2) The rate shall be

(a) based on the area of the land and expressed as so much per hectare of land; or

(b) based on the value of the land as established for the purpose of levying a rate pursuant to this Act and expressed as so much on each dollar of the value of the land.

- (3) In subsection (2), "land" does not include
- (a) buildings;
 - (b) utility poles;
 - (c) structures to be used for the generation of power; and
 - (d) such structures as the regulations may designate.
- (4) A rate based on the value of the land may not be levied without the approval of the Commission.
- (5) When the rate is fixed, the secretary of the executive committee shall have every owner rated in the assessment list served with a notice either personally or by mail showing the amount of the rate assessed for the current year as well as all arrears of the rate unpaid. 2000, c. 22, s. 32.

Recovery of rate

33 The amount due by any owner for a rate is a charge on the land and is a debt due to the marsh body and may be sued for and recovered as an ordinary debt in any court of competent jurisdiction. 2000, c. 22, s. 33.

Certificate as proof

34 In any action or proceeding for the recovery of a rate, a certificate appearing to be signed by the secretary of the executive committee of a marsh body is *prima facie* proof of the amount of the rate due and of the liability of the owner named in the certificate without proof of the signature or appointment of the secretary. 2000, c. 22, s. 34.

Collection of arrears

35 (1) Where an owner does not pay the rate assessed against that owner by July 1st in the year in which the rate has been levied, the secretary of the executive committee of the marsh body may issue a warrant for collection of the rate and of any arrears of the rate unpaid by the owner directed to any officer having jurisdiction in the place where the marshland section is situated.

(2) The officer shall, under the warrant, levy the amount mentioned in the warrant with costs and expenses of the collection by distress and sale of the goods and chattels of the owner named in the warrant.

(3) When the officer distrains upon goods or chattels, the officer shall advertise the sale for ten days in advance of the sale in a conspicuous place and, where the rate and the costs and expenses are not paid at or before the time appointed for the sale, or any adjournment of the sale, the goods and chattels shall be sold at public auction.

(4) The officer shall apply the proceeds of the sale toward payment of the rate and the costs and expenses incurred in the issue of the warrant, the

making of the levy and the holding of the sale and, where any balance remains, it shall be paid to the owner assessed for the rate. 2000, c. 22, s. 35.

Power of sale

36 (1) In addition to the other remedies provided in this Act for the collection of rates, the secretary of the executive committee of a marsh body may, in the manner provided by the *Municipal Government Act* for the sale of land for rates and taxes, sell or cause to be sold any marshland with respect to which rates are in arrears for a period of one year or more.

2) For the purpose of a sale of land pursuant to this Section, the chair and the secretary of the executive committee have all the powers, privileges and authority of the mayor and treasurer, respectively, of a town.

(3) The secretary shall apply the proceeds of any sale in the following order:

- (a) first, in payment of the costs and expenses of the sale;
- (b) second, in payment of the rate and interest due the marsh body; and
- (c) third, in payment of municipal taxes and interest on the land sold,

and the balance, if any, shall be paid to the prothonotary of the Supreme Court of Nova Scotia of the justice centre area in which the land is situate to be paid out by the prothonotary as directed by an order of the Supreme Court. 2000, c. 22, s. 36.

Manner of pursuing remedies

37 The remedies provided in this Act for the collection of rates may be pursued consecutively and in the order the executive committee of a marsh body deems best, but no land shall be sold in the manner provided for arrears of rates for which a judgment has been obtained. 2000, c. 22, s. 37.

BORROWING POWERS

Powers of executive committee

38 With the approval of the Commission, the executive committee of a marsh body may, in the name of the marsh body, borrow money for the purpose of defraying expenditures of the marsh body. 2000, c. 22, s. 38.

ENTRY AND DEVELOPMENT

Power of entry

39 Where the executive committee of a marsh body considers it is necessary for any purpose relating to the construction, maintenance or repair of works it may, without the consent of the owner, enter on any lands within the marshland sec-

tion for which the marsh body was incorporated and do any work the executive committee considers necessary for its purposes. 2000, c. 22, s. 39.

Expropriation

40 A marsh body may expropriate an easement in, over or relating to land for any purpose relating to the construction, maintenance or repair of works. 2000, c. 22, s. 40.

Requirement for permit

41 (1) In this Section, “working day” means any day other than Saturday, Sunday, a holiday or another day on which the offices of the Government of the Province are closed.

(1A) Notwithstanding the *Municipal Government Act* or any other provision of this Act, no development shall, on and after November 7, 2000, be carried out in a marshland section unless

- (a) a permit for variance authorizing the development is granted by the Marshland Administrator; or
- (b) the development
 - (i) conforms with generally accepted farming practices that do not require structures to be built,
 - (ii) is necessary for the protection of the marshland section,
 - (iii) was lawfully commenced before November 7, 2000,
 - (iv) was not commenced before November 7, 2000, but could have been lawfully commenced before November 7, 2000, or
 - (v) has been exempted from the application of this Section pursuant to subsection (2).

(2) The Governor in Council may exempt a development from the application of this Section where

- (a) the development consists of the construction of roads, the installation of utility poles or the installation or construction of structures to be used for the generation of power; and
- (b) the Governor in Council considers that it is in the public interest to grant the exemption.

(3) Within ten working days after receiving an application for a permit for variance, the Marshland Administrator shall

- (a) determine if the application is complete; and

(b) where the application is incomplete, notify the applicant in writing advising what is required to complete the application.

(4) Within thirty working days after receiving a completed application for a permit for variance, the Marshland Administrator shall either grant the permit with or without conditions or inform the applicant of the reasons for not granting the permit.

(5) The applicant may appeal a decision of the Marshland Administrator to the Commission within thirty working days of the decision being issued by the Marshland Administrator.

(5A) Within sixty working days of receiving an appeal, the Commission shall

- (a) confirm the decision of the Marshland Administrator;
- (b) order that the permit for variance be granted; or
- (c) order that the permit for variance be granted and impose conditions on the variance.

(5B) A permit for variance expires

- (a) twelve months after the date it is issued unless the development commences within twelve months of the date of its issue; or
- (b) upon discontinuance of the development more than twelve months after the date of its issue.

(6) Subsection (1A) does not apply to non-agricultural uses existing on the coming into force of this Act on lands specified in the regulations. 2000, c. 22, s. 41; 2009, c. 7, s. 4.

Offence and remedies

42 (1) Everyone who violates subsection 41(1A) is guilty of an offence.

(2) Where there is an offence under subsection (1), the Minister may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided by this Section.

(3) The Supreme Court of Nova Scotia may hear and determine the matter at any time and, in addition to any other remedy or relief, may make an order

- (a) restraining the continuance or repetition of the offence with respect to the same property;
- (b) directing the removal or destruction of any structure or part of a structure that was constructed in violation of subsection

41(1A) and authorizing the Minister, where an order is not complied with, to enter upon the land and premises with necessary workers and equipment and remove and destroy the structure, or part of it, at the expense of the owner;

(c) as to the recovery of the expense of removal and destruction and for the enforcement of this Section and for costs as is deemed proper,

and an order may be interlocutory, interim or final.

(4) Where, after the proceeding is commenced,

(a) the offence that was the subject of the proceeding may have been done or committed by a person other than the defendant;

(b) the title to the property, or part or any interest in it, that vested or was vested at the time of the commencement of the proceeding in the defendant, has since become vested in a person other than the defendant; or

(c) there has been a fresh offence by the same person or by another person with respect to the same property,

it is not necessary to bring another application and the original application may be amended from time to time and at any time before final judgment to include all parties and all offences and the whole matter of the offences shall be heard, dealt with and determined.

(5) Where the owner of any property where an offence under subsection (1) is taking place or has taken place cannot be found, the Minister may post a notice of the offence and upon the application upon the property, and the posting of the notice and the application is deemed to be personal service of the notice and the application on that owner. 2000, c. 22, s. 42; 2009, c. 7, s. 5.

Liability to repair

43 Marshland or works damaged as a result of use authorized by a permit granted to a person pursuant to Section 41 or exempted from the application of Section 41 pursuant to subsection 41(2), shall be repaired by the person and, where necessary repairs are not carried out within thirty days of being brought to the attention of the person by the marsh body, the marsh body may make the repairs and may recover the cost of repairs by an action in debt against the person in any court and the court may make such orders as to cost it may determine. 2000, c. 22, s. 43.

Supervision of executive committee

44 (1) Where at any time a marsh body defaults in the performance of any of the terms of an agreement with the Minister for the construction, reconstruction, reconditioning, repairing, maintaining or operating of any work or works and it appears to the Governor in Council that permanent damage or injury may result to any marshland, the Governor in Council may, by order published in the Royal Gazette, suspend the powers and authority of the executive committee of the

marsh body from a date set out in the order whereupon the powers and authority of the executive committee are suspended and are vested in and may be exercised by the Commission or its nominee or nominees.

(2) The Governor in Council may revoke an order made pursuant to subsection (1) and, upon such revocation, the powers and authorities of the executive committee revert to and may be exercised by the executive committee. 2000, c. 22, s. 44.

SURRENDER AND REVOCATION OF CERTIFICATE

Effect of surrender or revocation

45 (1) A marsh body may surrender to the Minister its certificate of incorporation if

- (a) the Commission approves of the surrender;
- (b) no debts or liabilities of the marsh body are outstanding;
- (c) a resolution authorizing the surrender of the certificate is passed at a general or special meeting of the marsh body by a vote of not fewer than two thirds of the members of the marsh body who own not less than half of the marshland section for which the marsh body was incorporated; and
- (d) at least thirty days before the meeting a notice has been given to all members of the marsh body stating
 - (i) the time and place of the meeting, and
 - (ii) that such a resolution will be considered by the meeting.

(2) Where the Minister is satisfied that the marsh body has surrendered its certificate of incorporation in accordance with subsection (1), the Minister may, by order, accept the surrender and thereupon the marsh body is dissolved on and from such date as is set out in the order.

(3) Where a marsh body fails to comply with this Act or defaults on any agreement it has with the Minister, the Minister, after having given the members of the marsh body notice that the Minister intends to revoke the marsh body's certificate of incorporation, may, by order, revoke the certificate of incorporation, if

- (a) the Minister is satisfied that
 - (i) the Commission approves of the revocation, and
 - (ii) no debts or liabilities of the marsh body are outstanding;

and

(b) the Minister has, at least thirty days before revoking the certificate, given notice of intention to revoke the certificate to each member of the marsh body.

(4) Where an order is made pursuant to subsection (3) revoking the certificate of incorporation of a marsh body, the marsh body is dissolved on and after such date as is set out in the order.

(5) Acceptance of the surrender or the revocation of the certificate of incorporation by the Minister and of the dissolution of the marsh body shall be published in the Royal Gazette. 2000, c. 22, s. 45.

Effect of surrender or revocation

46 Where a certificate of incorporation of a marsh body is surrendered or revoked and sixty days public notice is given, the Minister may, with the approval of Governor in Council, cease to maintain works for the marshland section for which the marsh body was incorporated. 2000, c. 22, s. 46.

GENERAL

Penalty and separate offences

47 (1) Any person who contravenes this Act or the regulations is liable on summary conviction to a penalty of not more than three thousand dollars and in default of payment to imprisonment for a term of not more than two years less a day.

(2) Where a person violates this Act on more than one day, each day constitutes a separate offence. 2000, c. 22, s. 47.

Conveyance of land

48 When lands that have been conveyed to Her Majesty in right of the Province pursuant to an agreement between the Minister and a person are required by the agreement to be reconveyed to the marsh body or the person, the Governor in Council may grant and convey the lands to the person and may authorize a member of the Executive Council to execute and deliver the necessary deed or deeds of conveyance in the name of Her Majesty in right of the Province. 2000, c. 22, s. 48.

Conflict

49 Where there is a conflict between any provision of this Act or the regulations and a more stringent provision of any other enactment, the more stringent provision prevails. 2000, c. 22, s. 49.

Immunity from liability

50 Neither Her Majesty in right of the Province nor any marsh body is liable to pay compensation for any damages caused by flooding as a result of activities undertaken pursuant to this Act. 2000, c. 22, s. 50.

Regulations

51 (1) The Minister may make regulations

- (a) prescribing accounting and bookkeeping methods and systems to be adopted by marsh bodies;
- (b) requiring marsh bodies to make reports and returns to the Commission;
- (c) prescribing and amending forms and agreements;
- (d) prescribing the terms and conditions for the issuing of permits for variance;
- (e) prescribing the procedures for hearing appeals by the Commission;
- (f) prescribing the manner in which the names and addresses of owners and the area of land is to be determined pursuant to Section 29;
- (g) providing for the examination and audit of accounts of marsh bodies and for the inspection and examination of works;
- (h) prescribing further or other or additional functions, duties or powers of the Commission;
- (i) designating structures that are not included within the meaning of "land" for the purpose of subsections 32(2) and (3);
- (ia) specifying land for the purpose of subsection 41(6);
- (j) respecting any other matter or thing that the Minister considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) In making a regulation pursuant to clauses (1)(d) or (e), the Minister shall consult with each marsh body affected by the regulation and with each municipality in which lands affected by the regulation are located.

(3) Where there is a conflict between a regulation made by the Minister pursuant to this Act and a rule made by a marsh body pursuant to this Act, the regulation prevails.

(4) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2000, c. 22, s. 51; 2001, c. 1, s. 2.

By-laws

- 52** (1) A marsh body may make by-laws
- (a) prescribing the number of members on the executive committee of the marsh body and their terms of office;
 - (b) providing for the manner of calling meetings of members of the marsh body and of the executive committee and the procedure at such meetings;
 - (c) fixing the financial year of the marsh body;
 - (d) prescribing the frequency of general meetings of the marsh body;
 - (e) prescribing the frequency of reports and estimates;
 - (f) providing for the manner of voting at meetings of the marsh body;
 - (g) prescribing the procedures respecting the assessment list inspection and appeals;
 - (h) imposing an interest charge at the rate fixed by the by-law upon rates that are unpaid on July 1st or such later date in any year as is fixed by the by-law;
 - (i) *repealed 2001, c. 1, s. 3.*
 - (j) generally for the management and conduct of its business and affairs.

(2) The secretary of a marsh body shall file with the Commission a copy of by-laws and amendments made by the marsh body.

(3) The secretary of the Commission shall file with the Registrar of Regulations a copy of each rule made by a marsh body pursuant to clause 14(e) and publication in the Royal Gazette is proof of approval by the Commission. 2000, c. 22, s. 52; 2001, c. 1, s. 3.

Continuation of agreements

53 Each agreement made pursuant to the *Marsh Act* or the *Marshland Reclamation Act* and in effect immediately before the coming into force of this Act is hereby continued. 2000, c. 22, s. 53.

Designation not injurious affection

54 Property is deemed not to be injuriously affected by any designation referred to in clause 2(d). 2000, c. 22, s. 54.

Repeal

55 (1) Chapter 273 of the Revised Statutes, 1989, the *Marsh Act*, is repealed.

(2) Chapter 274 of the Revised Statutes, 1989, the *Marshland Reclamation Act* is repealed. 2000, c. 22, s. 55.

Effective dates

56 Sections 41, 42 and 43 have effect on and after November 7, 2000. 2000, c. 22, s. 56.



2026-05-19

David Smith
Secretary
Agricultural Marshland Conservation Commission
Nova Scotia Department of Agriculture
32 Main Street
Kentville, NS B4N 1J5

David.J.Smith@novascotia.ca

Re: Request for Commission Review and Supportive Recommendation – Removal of Tregothic Marsh Body Land Use Regulations

Dear Mr. Smith,

Brighter Community Planning & Consulting (BCP) is writing on behalf of Mitch Brison / Brison Developments Ltd. to request that the Agricultural Marshland Conservation Commission review the current Tregothic Marsh Body Land Use Regulations and recommend their removal or repeal to the Minister of Agriculture.

The Tregothic Marsh Body Land Use Regulations came into effect on December 7, 2022. They prohibit the construction of works and the use or development of lands within, on, or affecting the Tregothic Marshland sections unless the activity is conducive to, and in conformity with, sound agricultural purposes and practices. The regulations identify agricultural activities deemed to conform with those purposes, while prohibiting certain non-agricultural works, uses, and developments, including land-fill sites or dumps, residential and commercial structures, drilled wells, new ponds for non-agricultural uses, and hunting without permission. Our concern relates primarily to the prohibition on residential and commercial structures and associated access requirements, such as driveways.

This request follows earlier correspondence submitted by Jennifer Nicholls to the Marshland Administrator on March 17, 2026, which requested a regulatory change to the Tregothic Marshland Regulations and outlined related variance and boundary considerations for lands owned by Brison Developments Ltd. That submission explained that the 2022 regulations restrict development within the Tregothic Marsh except where existing variances or exemptions apply, and requested that the regulations be rescinded so landowners are not unfairly prevented from having variance requests considered on their merits.



We understand that the Agricultural Marshland Conservation Act establishes the Commission's role in advising the Minister on matters related to the conservation, protection, development, and maintenance of marshland, and in approving rules made by a Marsh Body respecting works and land within a marshland section. The Act also provides that a Marsh Body may, subject to Commission approval, make rules respecting works and land within or affecting the marshland section. Accordingly, we are requesting that the Commission consider whether the current Tregothic regulations remain appropriate and support their removal or repeal through the applicable statutory and regulatory process.

On May 6, 2026, we met with Amber Creamer, Manager of Policy with the Department of Agriculture, to discuss the potential removal of the land use regulations. Ms. Creamer advised that, should the Commission support removal of the regulations following its review, Department staff would advance a recommendation to the Minister.

Basis for the Request

The concern is not with the purpose of the Agricultural Marshland Conservation Act. Brisson Developments Ltd. recognizes the importance of protecting agricultural marshland, maintaining drainage systems, and ensuring that development does not compromise marshland works or create flooding, servicing, or environmental impacts. The issue is that the current Tregothic Marsh Body Land Use Regulations impose a broad land-use prohibition that goes beyond what is required to protect the marsh and is no longer appropriate in this specific context.

The current regulations effectively prohibit new development unless an existing variance or exemption already applies. This removes the practical ability for landowners to have site-specific proposals reviewed on their merits. That outcome is unnecessary because variance requests are already subject to review and oversight under the Agricultural Marshland Conservation Act, including consideration by the Marshland Administrator and, where applicable, appeal or review by the Commission. The Act therefore already contains a mechanism to assess whether a proposed use, structure, access, trail improvement, or other development is appropriate in a marshland context. The current regulations add a blanket restriction that prevents reasonable proposals from being considered through that process.

This is unfair to property owners. Landowners should not be categorically prevented from seeking review of reasonable, site-specific proposals, particularly where lands are located along the edge of the marsh, are adjacent to existing development, are within or near municipal service areas, or may be capable of accommodating development without undermining the function of the marshland system. A regulatory approach that prevents nearly all new development, rather than allowing applications to be assessed through the established variance process, is disproportionate and unnecessarily restrictive.

It is also detrimental to the broader community. Under the current regulatory regime, even public or community-serving improvements may be prohibited if they are not considered agricultural in nature. This could include extensions or improvements to recreational trail infrastructure, such as the existing Tregothic Trail. A regulation that prevents consideration of trail extensions, public access



improvements, or other compatible community infrastructure does not reflect the mixed urban, recreational, infrastructure, and environmental context of the Tregothic Marsh.

The Tregothic Marsh is not a uniformly active agricultural landscape. Active agriculture is not currently taking place across the marshland, and recommencement of meaningful agricultural use appears unlikely in many areas due to the high prevalence of invasive multiflora rose. This invasive species is present throughout the marshland and significantly limits the practical agricultural use of affected lands. Maintaining a blanket land-use prohibition for the purpose of protecting agricultural use is difficult to justify where the agricultural potential of much of the affected land is already severely constrained.

The Tregothic Marsh also has a unique land-use context. It includes lands within and adjacent to the developed Windsor area, including areas near Highway 101, interchanges, municipal infrastructure, existing commercial and institutional uses, serviced lands, recreational lands, and other urban or urban-adjacent lands. Much of the land area is already exempt from marshland regulation, and the marsh includes a mix of developed, serviced, and urban-context lands rather than a continuous agricultural marsh.

We acknowledge that large areas of the Tregothic Marsh may not be appropriate for development due to drainage constraints, karst topography, flood risk, or other site-specific limitations. That is precisely why the variance process should remain available. These matters can and should be assessed through technical review, municipal planning processes, and the oversight mechanisms already provided under the Agricultural Marshland Conservation Act (“The Act”). The existence of constraints in some areas does not justify a broad prohibition on all new development, including areas along the edge of the marsh that are serviced by municipal infrastructure and located near existing growth areas.

This is particularly relevant near areas such as The Crossing, a Brison Developments project and one of the significant growing residential areas in West Hants. Lands at the edge of the marsh near existing services, transportation infrastructure, and established or emerging residential areas should not be treated the same as interior marshland areas with significant drainage or environmental constraints. A more balanced approach would allow these lands to be reviewed through the variance process rather than being excluded from consideration altogether.

Through consultation with the Marshland Administrator and the Department of Agriculture Manager of Policy, we understand that removal of the Marsh Body land use regulations is the only viable path identified to date. Efforts to reactivate the Marsh Body have been unsuccessful. In the absence of an active Marsh Body, removal of the regulations appears to be the only available mechanism to allow future proposals to be considered through the established review process.

Procedural Concerns Requiring Review

There are also procedural concerns that warrant Commission review. Mr. Brison has advised that, as a landowner, he was not notified of the meeting at which the Tregothic Marsh Body Land Use Regulations were advanced or came into force. He has also raised concern that quorum may not have been met at that Annual General Meeting where they were passed. Mr. Brison asserts that fewer than the required



five members approved the regulations and, for that reason, questions whether they should have proceeded to gazetting.

We are not asking the Commission to accept these concerns as conclusive without review. However, they are serious enough to warrant examination, particularly given the substantial effect of the regulations on landowners' ability to seek development review. The 2022 bylaws identify meeting notice, voting, quorum, and executive committee requirements for the Marsh Body, including provisions respecting notice to members and quorum for annual, general, or special meetings. If the regulations were advanced without proper notice to affected landowners or without quorum, that would raise a significant concern about whether the current regulations reflect a valid and representative decision of the Marsh Body.

Landowner Outreach and Reactivation Efforts

BCP on behalf of Brison Developments Ltd., held a landowner meeting because there was no active Marsh Body for at least the last two years. Our office made efforts to engage affected landowners and determine whether the Marsh Body could be reactivated. A meeting notice was mailed January 6th, 2026, to an identified list of landowners (95 invitations sent) within the Tregothic Marsh area. Canada Post has a service delivery of 5-7 business days and therefore this met the requirement for at least 10 days notice of a special meeting under the Act. The notice advised landowners of the proposed variance request and regulatory review, explained that the Tregothic Marshland Body was understood to be inactive, and invited them to attend virtually or in person, ask questions, and provide feedback before or after the meeting.

The landowner meeting was held on January 22, 2026. Its purpose was to provide background on the Tregothic Marsh and applicable legislation, explain why the current regulations are a barrier for landowners, and provide an opportunity for questions and feedback. This measure was recommended in lieu of an active Marsh Body meeting. Attendance and participation were very limited. Although landowners were notified and provided the opportunity to attend or submit feedback, only two people attended the meeting, with four additional parties requesting meeting materials. The Tregothic Marsh By-law Article IV require an Executive Committee numbering 5 individuals. The meeting turnout did not meet this threshold, nor the requirement for quorum at a special meeting.

Based on this outreach, there appears to be limited active participation from the broader Marsh Body membership at this time. The client has nevertheless made a good-faith effort to contact landowners, provide notice, share information, and determine whether there is a practical path to reactivating the Marsh Body. Given the limited participation and the concerns outlined above, we request that the Commission review the attached record and recommend repeal of the Tregothic Marsh Body Land Use Regulations to the Minister.

Effect of Removing the Regulations

The removal of the 2022 Tregothic Marsh Body Land Use Regulations would not remove the Agricultural Marshland Conservation Act from lands that remain within the designated marshland section. Section 41 of the Act continues to require a permit for variance for development in a marshland section unless



an applicable exception applies. Rather, the requested removal would restore the ability for development proposals to be assessed through the Act's variance process, instead of being precluded by a Marsh Body regulation that is no longer supported by an active Marsh Body, may not reflect the current land-use context of the Tregothic Marsh, and may have been adopted through a process that warrants further review.

Finally, the Municipality of West Hants has land use regulations that guide and restrict development on the Marshlands. Brison has worked with the Municipality, who were members of the Marsh Body to gain their perspective, and they are aware of this request.

Request

For these reasons, we respectfully request that the Commission:

- Hold a meeting and place this matter on the agenda;
- Review the attached landowner engagement record, meeting materials, bylaws, and prior request submitted on behalf of Brison Developments Ltd.;
- Consider the proportionality, fairness, and practical effect of the current Tregothic Marsh Body Land Use Regulations;
- Review the procedural concerns raised by Mr. Brison regarding notice and quorum;
- Support removal or repeal of the Tregothic Marsh Body Land Use Regulations; and
- Make a positive recommendation to the Minister of Agriculture to remove the land use regulations.

The attached materials are provided to assist the Commission in understanding the regulatory history, current landowner engagement efforts, procedural concerns, and practical challenges associated with reactivating the Marsh Body.

Thank you for your consideration. We would be pleased to provide additional information, attend a Commission meeting, or respond to questions from the Commission or Department staff.

Sincerely,

Lauren Isabelle
Planner

Brighter Community Planning & Consulting

On behalf of Mitch Brison / Brison Developments Ltd.



Attachments

Attachment	Document	Purpose
A	Email correspondence Marshland Administrator (March 17, 2026)	Documents the earlier request for regulatory change and related variance/boundary matters.
B	Email correspondence with Department of Agriculture Manager of Policy (April 9, 2026)	Supports the procedural history and direction received regarding process.
C	Email correspondence with Commission Secretary (April 16, 2026)	Supports direction received regarding Marsh Body reactivation
D	Landowner Meeting Notice (January 6, 2026)	Demonstrates notice and invitation to participate.
E	Meeting Invitation Circulation List	Documents the breadth of attempted landowner outreach.
F	Meeting Summary and Feedback (January 22, 2026)	Summarizes purpose and feedback received.




West Hants
something inspiring awaits

WEST HANTS REGIONAL MUNICIPALITY REPORT

Information <input type="checkbox"/>	Recommendation <input checked="" type="checkbox"/>	Decision Request <input type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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To: Committee of the Whole

Submitted by: 
Mark Phillips, Chief Administrative Officer

Date: February 14, 2023

Subject: Tregothic Marsh

LEGISLATIVE AUTHORITY

RECOMMENDATION or DECISION REQUEST

It is recommended for Committee of the Whole to recommend to Council that:

Council direct the Chief Administrative Officer or designate to request an amendment to the Tregothic Marsh Body Land Use Regulations made under the Agricultural Marshland Conservation Act by the Province of Nova Scotia to remove items (b) residential or commercial structures and (d) new ponds for non-agricultural uses from the list of non-permitted uses found in article 3 of the regulations

Further

That the Chief Administrative Officer or designate represent the Municipality at future Tregothic Marsh Body Meetings

BACKGROUND

The Tregothic Marsh Body (TMB) is one of 80 plus bodies in the Province representing the views of property owners (members) which are located within the various Marsh areas within the Province.

Marsh bodies are consulted by the Provincial Marshland Commission and its' Marshland Administrator when a variance application is received by the Department of Agriculture for a development or use of lands within the marshland impacted. Marsh bodies are asked to comment on variance applications with the Marshland Administrator and provide feedback. The administrator will review the applications, feedback and regulations when deciding on the application.

The Marsh Bodies have the ability to request, through the Nova Scotia Marsh Commission, changes to regulations governing the respective marshlands. The TMB requested changes to the regulations in 2022 and were approved and made effective December 7, 2022. These changes have sparked feedback to the municipality by some marshland property owners as well as internal concerns from staff of the municipality.

- 3)** For the purposes of subsection (1), non-permitted works, uses or developments include all of the following:
- (a) land-fill sites or dumps of any kind;
 - (b) *residential or commercial structures;*
 - (c) drilled wells;
 - (d) *new ponds for non-agricultural uses;*
 - (e) hunting without permission.

In 2022 the Tregothic Marsh Body conducted their regular meetings and AGM and part of that process drafted changes to the Provincial Regulations resulting in the regulation changes. Reviewing meeting minutes of the TMB it appears that meeting attendance is not strong by property owners within the TMB. This is not the fault of the body, but low attendance may result in a lack of awareness or lack of a majority representation of its members point of view. Admittedly the municipality as a property owner / member of the TMB has not had consistent representation at meetings and did not attend the AGM in 2022 where these regulations changes were reviewed. Due to the lack of attendance forfeiting its vote or input on agenda items including regulation changes.

It is not the intent of this report to evaluate the performance or processes of the Tregothic Marsh Body but to identify the impacts of the regulation changes.

Property <input checked="" type="checkbox"/>	Public Opinion <input type="checkbox"/>	Environment <input type="checkbox"/>	Social <input type="checkbox"/>	Economic <input checked="" type="checkbox"/>	Councillor Activity <input type="checkbox"/>
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DISCUSSION

The regulations now have added restrictions to non-exempt areas within the TMB that were not present before December 2022. The TMB map and exempt area are provided for Council’s reference. The Marshland Administrator when receiving an application has added regulations when considering an approval or denial.

The primary concerns expressed by staff are the restriction of residential or commercial structures and new ponds for non-agricultural uses. Anticipated development will be impacted by the current regulations.

NEXT STEPS

FINANCIAL IMPLICATIONS

There are no direct financial implications for the municipality

ALTERNATIVES

- Council may choose not to comment on the matter leaving the regulations “as is”.
- Council may choose to support the motion in principle but assign a member of Council to the TMB

ATTACHMENTS

- Tregothic Marsh Body Land Use Regulations
- Tregothic Marsh Map (including exempt areas)
- Nova Scotia Agricultural Marshland Conservation Act

Tregothic Marsh Body Land Use Regulations
made under clause 14(e) of the
Agricultural Marshland Conservation Act
S.N.S. 2000, c. 22
N.S. Reg. 266/2022 (effective December 7, 2022)

Table of Contents

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

[Click here to go to the text of the regulations.](#)

[Title](#)
[Uses and activities](#)
[Appendix “A”](#)

Title

1 These regulations may be cited as the *Tregothic Marsh Body Land Use Regulations*.

Uses and activities

- 2** (1) No person shall construct works or use or develop lands within, on, or affecting the Tregothic Marshland sections in any way that is not conducive to and in conformity with sound agricultural purposes and practices.
- (2) For the purposes of subsection (1), uses and activities deemed to be conducive to and in conformity with sound agricultural purposes and practices include all of the following:
- (a) the tilling of soil;
 - (b) the planting and harvesting of crops;
 - (c) the growing of grains and forage crops for livestock feed;
 - (d) the growing of grass and legume crops;
 - (e) the growing of food crops for human consumption;
 - (f) pest and weed control that will not negatively impact the water and drainage system on the marshland;

- (g) pre-existing exemptions, non-conforming uses, only where they presently exist
 - (i) Sewage Lagoon,
 - (ii) Areas of Exemption as noted in Appendix A (Tregothic Marshland Map).
- (3) For the purposes of subsection (1), non-permitted works, uses or developments include all of the following:
 - (a) land-fill sites or dumps of any kind;
 - (b) residential or commercial structures;
 - (c) drilled wells;
 - (d) new ponds for non-agricultural uses;
 - (e) hunting without permission.

Appendix “A”

Legislative History Reference Tables

Tregothic Marsh Body Land Use Regulations
Agricultural Marshland Conservation Act

N.S. Reg. 266/2022

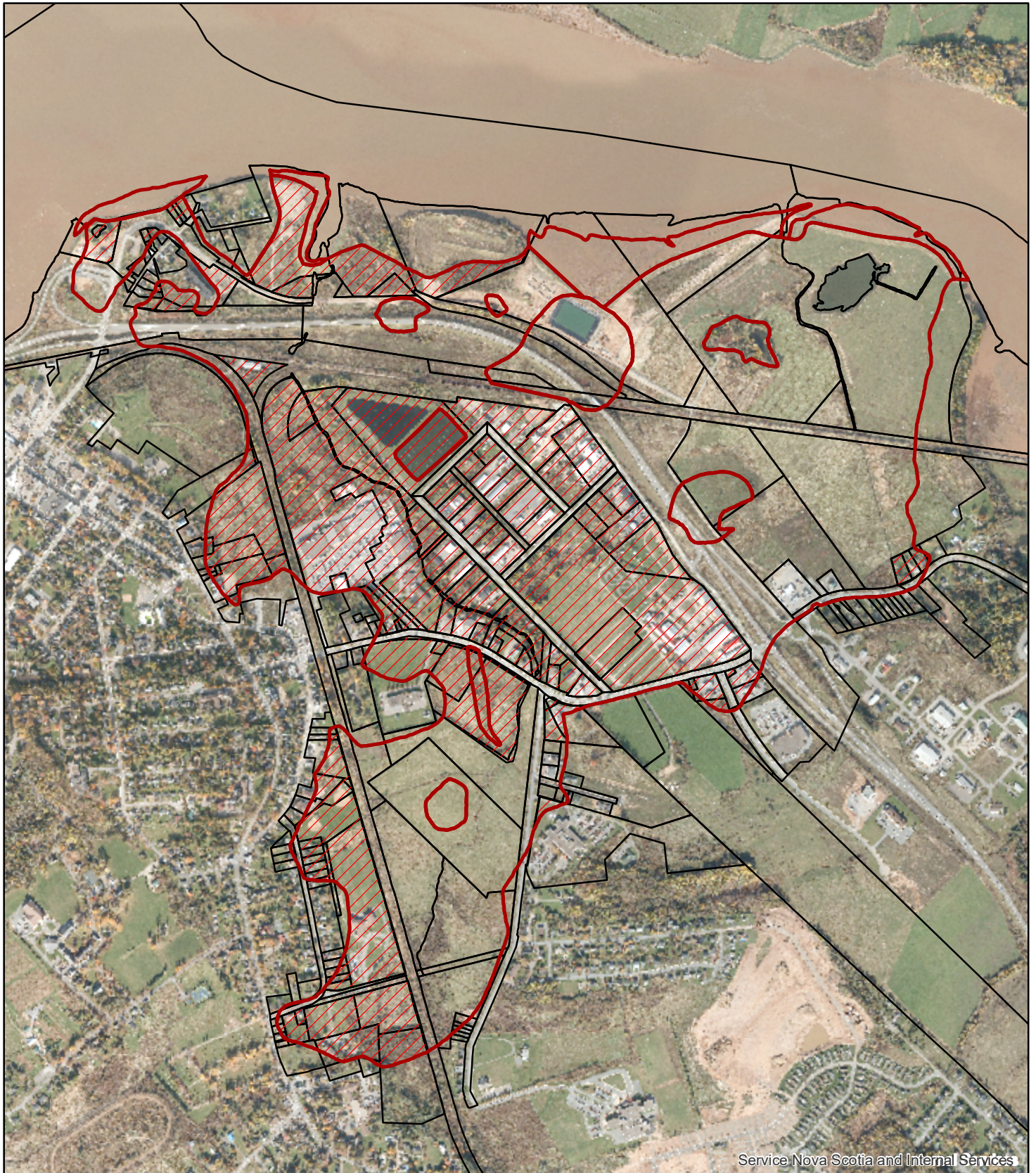
Note: The information in these tables does not form part of the regulations and is compiled by the Office of the Registrar of Regulations for reference only.

Source Law

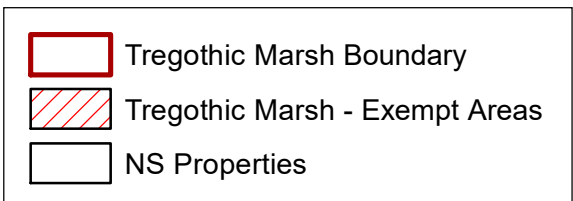
The current consolidation of the *Tregothic Marsh Body Land Use Regulations* made under the *Agricultural Marshland Conservation Act* includes all of the following regulations:

N.S. Regulation	In force date*	How in force	Royal Gazette Part II Issue
266/2022	Dec 7, 2022	date filed (not filed within 7 days)	Dec 16, 2022

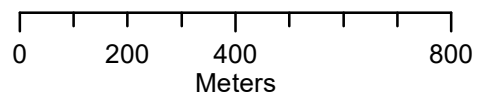
Tregothic Marsh - NS68 Exempt Areas



Service Nova Scotia and Internal Services



Data: NSGC
NSDA





Agricultural Marshland Conservation Act

CHAPTER 22

OF THE

ACTS OF 2000

amended 2001, c. 1, ss. 2, 3; 2001, c. 6, s. 96; 2004, c. 38, s. 26;
2009, c. 7

NOTE - This electronic version of this statute is provided by the Office of the Legislative Counsel for your convenience and personal use only and may not be copied for the purpose of resale in this or any other form. Formatting of this electronic version may differ from the official, printed version. Where accuracy is critical, please consult official sources.

An Act for the Conservation of Agricultural Marshland

Short title

1 This Act may be cited as the Agricultural Marshland Conservation Act. *2000, c. 22, s. 1.*

Interpretation

2 In this Act,

- (a) "Commission" means the Agricultural Marshlands Conservation Commission;
- (b) "development" includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure or a change or alteration in the use made of lands or structures;
- (c) "marsh body" means a marsh body incorporated pursuant to this Act or continued by this Act;
- (d) "marshland" means land that is
 - (i) subject to periodic tidal flooding, and
 - (ii) designated by the Minister as marshland pursuant to this Act or Chapter 274 of the Revised Statutes, 1989, the Marshland Reclamation Act;

- (e) "Marshland Administrator" means the Marshland Administrator appointed pursuant to this Act and includes a person acting under the supervision and direction of the Marshland Administrator;
- (f) "marshland section" means an area of marshland that may be effectively dealt with as a unit in the construction and maintenance of works;
- (g) "Minister" means the Minister of Agriculture;
- (h) "rates" means rates levied pursuant this Act, including interest on rates;
- (i) "works" includes dykes, aboiteaux, breakwaters, canals, ditches, drains, roads and other structures, excavations and facilities for the conservation, development, improvement or protection of marshland to a standard appropriate for agricultural purposes. *2000, c. 22, s. 2; 2009, c. 7, s. 1.*

Supervision and management

3 The Minister has the general supervision and management of this Act. *2000, c. 22, s. 3.*

Powers of Minister

- 4 (1) Subject to the approval of the Governor in Council, the Minister may construct works to develop marshland for agricultural purposes.
- (2) The Minister may reconstruct, repair, operate and maintain any works for the protection, drainage and improvement of marshland for agricultural purposes.
- (3) The costs and expenses incurred as a result of the activities carried out pursuant to subsections (1) and (2) shall be paid from moneys appropriated annually by the Legislature.
- (4) For the purpose of carrying out the activities authorized by this Section, the Minister may
- (a) enter into agreements with the Government of Canada, the government of any other province of Canada, any department, body or person;
- (b) purchase, dispose of or rent real and personal property;
- (c) engage all necessary employees, consultants, contractors or other persons;
- (d) take or authorize any person to take any action that may be necessary for carrying out the purpose of this Act. *2000, c. 22, s. 4 .*

Designations

- 5 (1) The Minister may, by order, designate and fix the boundaries of any marshland section for the purpose of carrying out any works or projects pursuant to this Act.
- (2) A marshland section designated pursuant to subsection (1) may include any lands adjacent to the marshland that the Minister considers necessary for the construction and maintenance of any works.
- (3) Where the designation of a marshland section has been made pursuant to this Section, the Minister shall
- (a) publish a notice containing a description of the marshland section in the Royal Gazette;

(b) deposit a description of the marshland section in the office of the registrar of deeds for the registration district in which the marshland section is situate or where the marshland section is located in one or more parcels of land registered pursuant to the Land Registration Act, record the legal description in the register or registers established for that parcel or those parcels pursuant to that Act ; and

(c) give notice of the designation and a description of the marshland section to the owner of the marshland section. *2000, c. 22, s. 5; 2001, c. 6, s. 96; 2004, c. 38, s. 26.*

Effect of designation

6 Any area designated by the Minister as a marshland section pursuant to Section 5 is marshland for the purpose of this Act. *2000, c. 22, s. 6.*

AGRICULTURAL MARSHLAND CONSERVATION COMMISSION

Composition, remuneration and staff

7 (1) The Governor in Council may appoint an Agricultural Marshland Conservation Commission consisting of not more than five members.

(2) The Governor in Council shall appoint one member to be the Chair of the Commission.

(3) The Governor in Council shall appoint, from the public service of the Province, a suitable person to be the Secretary of the Commission.

(4) A majority of members of the Commission constitutes a quorum.

(5) Each member of the Commission shall be paid such remuneration as determined by the Governor in Council.

(6) Each member of the Commission shall be reimbursed as determined by the Governor in Council for reasonable travel and other expenses incurred by that member in carrying out the duties of a member of the Commission.

(7) Each member of the Commission holds office for a period of up to three years unless the appointment is revoked and is eligible for re-appointment.

(8) A vacancy on the Commission does not impair the ability of the Commission to act. *2000, c. 22, s. 7.*

Duties of Commission

8 The Commission shall

(a) advise the Minister on matters related to the conservation and protection of marshland and its development and maintenance;

(b) hear appeals pursuant to this Act;

(c) study and examine proposals for the construction, reconstruction, recondition, repair, maintenance, conduct or operation of works and make recommendations to the Minister;

- (d) approve rules made by a marsh body respecting works and land within a marshland section; and
- (e) perform such further or other duties as may be assigned to it by this Act or the regulations. *2000, c. 22, s. 8.*

Expenses

9 The administration expenses of the Commission are administration expenses of the Department of Agriculture. *2000, c. 22, s. 9; 2009, c. 7, s. 2.*

MARSHLAND ADMINISTRATOR

Appointment and duties

10 The Minister shall appoint from the public service of the Province a suitable person to be the Marshland Administrator who shall perform such duties as are imposed by this Act or the regulations. *2000, c. 22, s. 10.*

MARSH BODIES

Incorporation of marsh bodies

- 11 (1) The owners of marshland in any marshland section may petition the Commission requesting that they be incorporated as a marsh body for that marshland section.
- (2) The petition shall set forth
- (a) the boundaries and size of the marshland section;
 - (b) the names and addresses of all persons believed to be, after due inquiry, the owners of marshland within the marshland section;
 - (c) the approximate amount of marshland owned by each owner within the marshland section;
 - (d) the proposed name of the marsh body; and
 - (e) the names of not more than nine persons to be the provisional executive committee of the marsh body.
- (3) Subject to subsection (4), where the Minister is satisfied that
- (a) the petition is signed by not less than two thirds of the owners of marshland within the marshland section;
 - (b) the persons signing the petition are the owners of not less than one half of the marshland within the marshland section; and
 - (c) the Commission recommends that the owners be constituted as a marsh body,
- the Minister may, by issuing a certificate in a form prescribed by the regulations, constitute the owners of land within the marshland section as a body corporate under the name set out in the certificate.

(4) Except in exceptional circumstances, a marsh body may not be incorporated for any marshland other than a marshland section, but in such circumstances a certificate of incorporation may be issued for marshland that comprises less than a marshland section or that comprises more than one marshland section.

(5) A certificate of incorporation issued pursuant to this Act shall be published in the Royal Gazette.

(6) Each marsh body incorporated pursuant to Chapter 274 of the Revised Statutes, 1989, the Marshland Reclamation Act, and in existence immediately before the coming into force of this Act is continued as a body corporate with the same powers and functions as a marsh body incorporated pursuant to this Act. *2000, c. 22, s. 11.*

Membership of bodies

12 (1) Every person who is an owner of marshland in a marshland section is a voting member of the marsh body incorporated for the marshland.

(2) A member of a marsh body may, by instrument in writing filed with the secretary of the marsh body, nominate another person who is a tenant, occupant or manager of the marshland owned by the member to represent the member at meetings of members of the marsh body.

(3) A person nominated is, until the nomination is rescinded, a member of the marsh body and, without restricting the generality of the foregoing, has, at meetings of members of the marsh body, all the rights and privileges of the member represented and is eligible for election to and to serve as a member of the executive committee of the marsh body.

(4) At any meeting of the marsh body, a member that is a corporation may vote in the manner prescribed by the by-laws of the marsh body. *2000, c. 22, s. 12.*

Variation of boundaries

13 (1) The Minister may vary the boundaries of a marshland section for which a marsh body is incorporated by adding marshland to the section or excluding marshland from the section where

(a) the Commission recommends that the Minister make the variation; and

(b) the Minister is satisfied that

(i) a resolution requesting the variation has been passed at a general or special meeting of the members of the marsh body by a vote of not fewer than two thirds of the members of the marsh body present at the meeting, and

(ii) the owners of not less than two thirds of the marshland proposed to be added or excluded favour the variation.

(2) Where the Minister varies the boundaries of a marshland section for which a marsh body was incorporated,

(a) each owner of marshland added to the marshland section is a member of the marsh body;

(b) any marshland added to the marshland section is subject to this Act;

(c) each owner of marshland excluded from the marshland section ceases to be a member of the marsh body if, as a result of the variation, the owner ceases to own any land in the marshland section; and

(d) any marshland excluded from the marshland section ceases to be subject to this Act.

(3) Where a variation is made pursuant to this Section, the Minister shall insert a notice containing a description of the area in of the Royal Gazette. *2000, c. 22, s. 13.*

Powers of marsh bodies

14 A marsh body may

(a) acquire, use, sell and lease real and personal property;

(b) construct, reconstruct, recondition, repair, maintain, conduct and operate works;

(c) enter into agreements with the Minister or other persons for the construction, reconstruction, reconditioning, repairing, maintenance, conduct or operation of works;

(d) make by-laws not inconsistent with this Act for the regulation of its business and affairs;

(e) subject to the approval of the Commission, make rules respecting works and land within or affecting the marshland section;

(f) raise money for its purposes by borrowing or by the levying of rates pursuant to this Act;

(g) prepare a mission or an objectives statement;

(h) do and perform all other acts and things incidental or conducive to the attainment of its objects. *2000, c. 22, s. 14.*

Executive Committee

15 (1) Each marsh body shall have an executive committee.

(2) The executive committee consists of such number of members of the marsh body as are prescribed by the by-laws of the marsh body.

(3) The executive committee has the management and direction of the business and affairs of the marsh body. *2000, c. 22, s. 15.*

Execution of document

16 All documents to which a marsh body is a party shall be executed on behalf of the marsh body by the chair and the secretary of the executive committee of the marsh body or by such members of the executive committee as the executive committee may authorize. *2000, c. 22, s. 16.*

Provisional executive committee

17 (1) Those persons who are, in a petition requesting the incorporation of a marsh body, named as the provisional executive committee of the marsh body constitute the provisional executive committee of the

marsh body and are the first executive committee of the marsh body.

(2) The members of the provisional executive committee hold office and are the executive committee of the marsh body until their successors are elected pursuant to the by-laws of the marsh body.

(3) The provisional executive committee shall elect from their number a chair and a secretary.

(4) The provisional executive committee shall call an organization meeting of the members of the marsh body, not later than three months from the date of publication of the certificate of incorporation.

(5) At the organization meeting, by-laws of the marsh body shall be adopted and an executive committee consisting of the number of persons prescribed by the by-laws shall be elected.

(6) A member of the executive committee elected at a general meeting of the marsh body holds office for a term as prescribed by the by-laws and may be re-elected. *2000, c. 22, s. 17.*

Chair and secretary of executive committee

18 (1) The members of the executive committee of a marsh body shall, at their first meeting after the organization meeting of the marsh body and, after each general meeting, elect one of their number to be chair of the executive committee.

(2) The chair of the executive committee is also the chair of the marsh body and shall preside over meetings of the executive committee and the marsh body.

(3) At the same meeting, the executive committee of a marsh body shall elect a secretary.

(4) The secretary of the executive committee is also the secretary of the marsh body. *2000, c. 22, s. 18.*

Filling of vacancies

19 When a vacancy occurs on the executive committee of a marsh body, the remaining members may appoint a successor to the member whose office becomes vacant, and the person appointed holds office until the next general meeting of the marsh body, when the vacancy shall be filled for the unexpired portion of the term. *2000, c. 22, s. 19.*

Frequency of meetings

20 The executive committee of a marsh body shall meet as frequently as may be necessary to attend to the business and affairs of the marsh body, and shall be convened by the chair of the executive committee at any time when at least two members of the marsh body request the meeting in writing. *2000, c. 22, s. 20.*

Annual report

20A Within ninety days after the end of each calendar year, the executive committee of a marsh body shall meet and submit to the Commission a report respecting the activities of the marsh body during that calendar year. *2009, c. 7, s. 3.*

Quorum

21 A majority of the members of the executive committee of a marsh body constitutes a quorum. *2000, c. 22, s. 21.*

Fiscal year

22 The financial year of a marsh body shall be fixed by the by-laws of the marsh body. *2000, c. 22, s. 22.*

Meetings of members of body

23 (1) There shall be general meetings of the members of a marsh body as prescribed by the by-laws of the marsh body and at a time and place determined by the executive committee of the marsh body.

(2) A special meeting of the members of the marsh body may be called and held in the manner prescribed by the by-laws of the marsh body. *2000, c. 22, s. 23.*

Voting rights

24 (1) At an organization meeting and at any other meeting of a marsh body within one year after its incorporation each member of the marsh body may vote.

(2) Notwithstanding subsection (1), a member may not vote at a meeting of the marsh body if, after one year from the date of its incorporation, all rates levied upon the member's land, pursuant to this Act, prior to one year before the date of the meeting have not been paid. *2000, c. 22, s. 24.*

Notice of time and place of meeting

25 The chair or secretary of the executive committee of a marsh body shall give notice of the time and place of each general or special meeting of the marsh body by mailing a notice to each owner at the owner's last known address at least ten days before the date of the meeting. *2000, c. 22, s. 25.*

Report of executive committee

26 The executive committee of a marsh body shall, at each general meeting of the marsh body, present a report of its administration of the affairs of the marsh body and an audited financial statement covering its administration since the last general meeting. *2000, c. 22, s. 26.*

Auditor

27 (1) The members of a marsh body shall, at the organization meeting and at each general meeting of the marsh body, appoint an auditor or auditors who shall examine the accounts of the marsh body.

(2) The auditor shall have free access at all times to the books, accounts and vouchers of the marsh body and may require from the officers and secretary of the marsh body any information and explanation necessary for the performance of the duties of the auditor.

(3) The auditor may be paid for services such compensation as the executive committee of the marsh body determines.

(4) The executive committee of the marsh body shall publish the auditor's report and provide each member with a copy of the report. *2000, c. 22, s. 27.*

Estimates and reserve fund

28 (1) The executive committee of a marsh body shall annually prepare estimates of the amount required for the purposes of the marsh body for the ensuing year, making allowances for losses and expenses that may occur in the collection of rates pursuant to this Act and for rates that may not be collected or collectable, and shall present the estimates to a general meeting of the marsh body for approval of the marsh body.

(2) In preparing its estimates, the executive committee may make provision for the raising of an amount that is not less than one per cent of the value at which all marshland within the marshland section is assessed for the purpose of levying rates pursuant to this Act to be placed in a special reserve fund.

(3) The executive committee may invest the special reserve fund in investments authorized by the Trustee Act.

(4) The special reserve fund may be used only for the payment of the cost of extraordinary work and no withdrawals shall be made from it without the approval in writing of the Commission. *2000, c. 22, s. 28.*

ASSESSMENT AND RATING

Preparation of lists and valuations

29 The executive committee of a marsh body shall

(a) in such manner as is prescribed by the regulations, prepare and make available for inspection by the owners an assessment list containing the name of each person who is, the owner of marshland for which the marsh body was incorporated, the owner's address, the number of hectares owned by the owner; and

(b) establish the value at which the land is assessed by the executive committee for the purpose of levying rates pursuant to this Act. *2000, c. 22, s. 29.*

Right to appeal

30 (1) Any person complaining of being wrongfully inserted or omitted in an assessment list may appeal to the executive committee of the marsh body.

(2) An appeal may be taken by giving notice of the appeal to the secretary of the executive committee within thirty days after the assessment list was made available for inspection.

(3) The executive committee, for the purpose of an appeal, may examine witnesses on oath or affirmation, administered by the chair of the committee, and the person appealing or any person interested in the appeal may call and examine witnesses on oath.

(4) The executive committee may, on an appeal or on its own motion,

(a) confirm or vary the number of hectares owned by any person;

(b) confirm or vary the value per hectare at which the land is assessed;

(c) add to the assessment list the name and assessment of any person improperly left off the assessment list if the person has been given notice of the addition and has had a reasonable opportunity to be heard; or

(d) strike off the assessment list the name and assessment of any person improperly entered. 2000, c. 22, s. 30.

Certification of lists

31 (1) The secretary of the executive committee of a marsh body shall certify that the assessment list was approved by the executive committee, and it shall be open to inspection at the office of the secretary by any owner of land within the marshland section.

(2) The assessment list after being certified binds all owners assessed on the list. 2000, c. 22, s. 31.

Rates

32 (1) The executive committee of a marsh body may, no later than April 15th in each year, levy a rate on each owner of land included in the marsh section for which the marsh body was incorporated in such an amount that the aggregate of all rates so levied is sufficient to raise the amount estimated by the executive committee as the amount of money required for the purposes of the marsh body for the ensuing year.

(2) The rate shall be

(a) based on the area of the land and expressed as so much per hectare of land; or

(b) based on the value of the land as established for the purpose of levying a rate pursuant to this Act and expressed as so much on each dollar of the value of the land.

(3) In subsection (2), "land" does not include

(a) buildings;

(b) utility poles;

(c) structures to be used for the generation of power; and

(d) such structures as the regulations may designate.

(4) A rate based on the value of the land may not be levied without the approval of the Commission.

(5) When the rate is fixed, the secretary of the executive committee shall have every owner rated in the assessment list served with a notice either personally or by mail showing the amount of the rate assessed for the current year as well as all arrears of the rate unpaid. 2000, c. 22, s. 32.

Recovery of rate

33 The amount due by any owner for a rate is a charge on the land and is a debt due to the marsh body and may be sued for and recovered as an ordinary debt in any court of competent jurisdiction. 2000, c. 22, s. 33.

Certificate as proof

34 In any action or proceeding for the recovery of a rate, a certificate appearing to be signed by the secretary of the executive committee of a marsh body is prima facie proof of the amount of the rate due

and of the liability of the owner named in the certificate without proof of the signature or appointment of the secretary. *2000, c. 22, s. 34.*

Collection of arrears

35 (1) Where an owner does not pay the rate assessed against that owner by July 1st in the year in which the rate has been levied, the secretary of the executive committee of the marsh body may issue a warrant for collection of the rate and of any arrears of the rate unpaid by the owner directed to any officer having jurisdiction in the place where the marshland section is situated.

(2) The officer shall, under the warrant, levy the amount mentioned in the warrant with costs and expenses of the collection by distress and sale of the goods and chattels of the owner named in the warrant.

(3) When the officer distrains upon goods or chattels, the officer shall advertise the sale for ten days in advance of the sale in a conspicuous place and, where the rate and the costs and expenses are not paid at or before the time appointed for the sale, or any adjournment of the sale, the goods and chattels shall be sold at public auction.

(4) The officer shall apply the proceeds of the sale toward payment of the rate and the costs and expenses incurred in the issue of the warrant, the making of the levy and the holding of the sale and, where any balance remains, it shall be paid to the owner assessed for the rate. *2000, c. 22, s. 35.*

Power of sale

36 (1) In addition to the other remedies provided in this Act for the collection of rates, the secretary of the executive committee of a marsh body may, in the manner provided by the Municipal Government Act for the sale of land for rates and taxes, sell or cause to be sold any marshland with respect to which rates are in arrears for a period of one year or more.

(2) For the purpose of a sale of land pursuant to this Section, the chair and the secretary of the executive committee have all the powers, privileges and authority of the mayor and treasurer, respectively, of a town.

(3) The secretary shall apply the proceeds of any sale in the following order:

- (a) first, in payment of the costs and expenses of the sale;
- (b) second, in payment of the rate and interest due the marsh body; and
- (c) third, in payment of municipal taxes and interest on the land sold,

and the balance, if any, shall be paid to the prothonotary of the Supreme Court of Nova Scotia of the justice centre area in which the land is situate to be paid out by the prothonotary as directed by an order of the Supreme Court. *2000, c. 22, s. 36.*

Manner of pursuing remedies

37 The remedies provided in this Act for the collection of rates may be pursued consecutively and in the order the executive committee of a marsh body deems best, but no land shall be sold in the manner provided for arrears of rates for which a judgment has been obtained. *2000, c. 22, s. 37.*

BORROWING POWERS

Powers of executive committee

38 With the approval of the Commission, the executive committee of a marsh body may, in the name of the marsh body, borrow money for the purpose of defraying expenditures of the marsh body. *2000, c. 22, s. 38.*

ENTRY AND DEVELOPMENT

Power of entry

39 Where the executive committee of a marsh body considers it is necessary for any purpose relating to the construction, maintenance or repair of works it may, without the consent of the owner, enter on any lands within the marshland section for which the marsh body was incorporated and do any work the executive committee considers necessary for its purposes. *2000, c. 22, s. 39.*

Expropriation

40 A marsh body may expropriate an easement in, over or relating to land for any purpose relating to the construction, maintenance or repair of works. *2000, c. 22, s. 40.*

Requirement for permit

41 (1) In this Section, "working day" means any day other than Saturday, Sunday, a holiday or another day on which the offices of the Government of the Province are closed.

(1A) Notwithstanding the Municipal Government Act or any other provision of this Act, no development shall, on and after November 7, 2000, be carried out in a marshland section unless

- (a) a permit for variance authorizing the development is granted by the Marshland Administrator; or
- (b) the development
 - (i) conforms with generally accepted farming practices that do not require structures to be built,
 - (ii) is necessary for the protection of the marshland section,
 - (iii) was lawfully commenced before November 7, 2000,
 - (iv) was not commenced before November 7, 2000, but could have been lawfully commenced before November 7, 2000, or
 - (v) has been exempted from the application of this Section pursuant to subsection (2).
- (2) The Governor in Council may exempt a development from the application of this Section where
 - (a) the development consists of the construction of roads, the installation of utility poles or the installation or construction of structures to be used for the generation of power; and
 - (b) the Governor in Council considers that it is in the public interest to grant the exemption.

(3) Within ten working days after receiving an application for a permit for variance, the Marshland Administrator shall

(a) determine if the application is complete; and

(b) where the application is incomplete, notify the applicant in writing advising what is required to complete the application.

(4) Within thirty working days after receiving a completed application for a permit for variance, the Marshland Administrator shall either grant the permit with or without conditions or inform the applicant of the reasons for not granting the permit.

(5) The applicant may appeal a decision of the Marshland Administrator to the Commission within thirty working days of the decision being issued by the Marshland Administrator.

(5A) Within sixty working days of receiving an appeal, the Commission shall

(a) confirm the decision of the Marshland Administrator;

(b) order that the permit for variance be granted; or

(c) order that the permit for variance be granted and impose conditions on the variance.

(5B) A permit for variance expires

(a) twelve months after the date it is issued unless the development commences within twelve months of the date of its issue; or

(b) upon discontinuance of the development more than twelve months after the date of its issue.

(6) Subsection (1A) does not apply to non-agricultural uses existing on the coming into force of this Act on lands specified in the regulations. *2000, c. 22, s. 41; 2009, c. 7, s. 4.*

Offence and remedies

42 (1) Everyone who violates subsection 41(1A) is guilty of an offence.

(2) Where there is an offence under subsection (1), the Minister may apply to the Supreme Court of Nova Scotia for any or all of the remedies provided by this Section.

(3) The Supreme Court of Nova Scotia may hear and determine the matter at any time and, in addition to any other remedy or relief, may make an order

(a) restraining the continuance or repetition of the offence with respect to the same property;

(b) directing the removal or destruction of any structure or part of a structure that was constructed in violation of subsection 41(1A) and authorizing the Minister, where an order is not complied with, to enter upon the land and premises with necessary workers and equipment and remove and destroy the structure, or part of it, at the expense of the owner;

(c) as to the recovery of the expense of removal and destruction and for the enforcement of this Section and for costs as is deemed proper,

and an order may be interlocutory, interim or final.

(4) Where, after the proceeding is commenced,

(a) the offence that was the subject of the proceeding may have been done or committed by a person other than the defendant;

(b) the title to the property, or part or any interest in it, that vested or was vested at the time of the commencement of the proceeding in the defendant, has since become vested in a person other than the defendant; or

(c) there has been a fresh offence by the same person or by another person with respect to the same property,

it is not necessary to bring another application and the original application may be amended from time to time and at any time before final judgment to include all parties and all offences and the whole matter of the offences shall be heard, dealt with and determined.

(5) Where the owner of any property where an offence under subsection (1) is taking place or has taken place cannot be found, the Minister may post a notice of the offence and upon the application upon the property, and the posting of the notice and the application is deemed to be personal service of the notice and the application on that owner. *2000, c. 22, s. 42; 2009, c. 7, s. 5.*

Liability to repair

43 Marshland or works damaged as a result of use authorized by a permit granted to a person pursuant to Section 41 or exempted from the application of Section 41 pursuant to subsection 41(2), shall be repaired by the person and, where necessary repairs are not carried out within thirty days of being brought to the attention of the person by the marsh body, the marsh body may make the repairs and may recover the cost of repairs by an action in debt against the person in any court and the court may make such orders as to cost it may determine. *2000, c. 22, s. 43.*

Supervision of executive committee

44 (1) Where at any time a marsh body defaults in the performance of any of the terms of an agreement with the Minister for the construction, reconstruction, reconditioning, repairing, maintaining or operating of any work or works and it appears to the Governor in Council that permanent damage or injury may result to any marshland, the Governor in Council may, by order published in the Royal Gazette, suspend the powers and authority of the executive committee of the marsh body from a date set out in the order whereupon the powers and authority of the executive committee are suspended and are vested in and may be exercised by the Commission or its nominee or nominees.

(2) The Governor in Council may revoke an order made pursuant to subsection (1) and, upon such revocation, the powers and authorities of the executive committee revert to and may be exercised by the executive committee. *2000, c. 22, s. 44.*

SURRENDER AND REVOCATION OF CERTIFICATE

Effect of surrender or revocation

45 (1) A marsh body may surrender to the Minister its certificate of incorporation if

- (a) the Commission approves of the surrender;
- (b) no debts or liabilities of the marsh body are outstanding;
- (c) a resolution authorizing the surrender of the certificate is passed at a general or special meeting of the marsh body by a vote of not fewer than two thirds of the members of the marsh body who own not less than half of the marshland section for which the marsh body was incorporated; and
- (d) at least thirty days before the meeting a notice has been given to all members of the marsh body stating
 - (i) the time and place of the meeting, and
 - (ii) that such a resolution will be considered by the meeting.

(2) Where the Minister is satisfied that the marsh body has surrendered its certificate of incorporation in accordance with subsection (1), the Minister may, by order, accept the surrender and thereupon the marsh body is dissolved on and from such date as is set out in the order.

(3) Where a marsh body fails to comply with this Act or defaults on any agreement it has with the Minister, the Minister, after having given the members of the marsh body notice that the Minister intends to revoke the marsh body's certificate of incorporation, may, by order, revoke the certificate of incorporation, if

- (a) the Minister is satisfied that
 - (i) the Commission approves of the revocation, and
 - (ii) no debts or liabilities of the marsh body are outstanding;

and

(b) the Minister has, at least thirty days before revoking the certificate, given notice of intention to revoke the certificate to each member of the marsh body.

(4) Where an order is made pursuant to subsection (3) revoking the certificate of incorporation of a marsh body, the marsh body is dissolved on and after such date as is set out in the order.

(5) Acceptance of the surrender or the revocation of the certificate of incorporation by the Minister and of the dissolution of the marsh body shall be published in the Royal Gazette. *2000, c. 22, s. 45.*

Effect of surrender or revocation

46 Where a certificate of incorporation of a marsh body is surrendered or revoked and sixty days public notice is given, the Minister may, with the approval of Governor in Council, cease to maintain works for the marshland section for which the marsh body was incorporated. *2000, c. 22, s. 46.*

GENERAL

Penalty and separate offences

47 (1) Any person who contravenes this Act or the regulations is liable on summary conviction to a penalty of not more than three thousand dollars and in default of payment to imprisonment for a term of not more than two years less a day.

(2) Where a person violates this Act on more than one day, each day constitutes a separate offence. *2000, c. 22, s. 47.*

Conveyance of land

48 When lands that have been conveyed to Her Majesty in right of the Province pursuant to an agreement between the Minister and a person are required by the agreement to be reconveyed to the marsh body or the person, the Governor in Council may grant and convey the lands to the person and may authorize a member of the Executive Council to execute and deliver the necessary deed or deeds of conveyance in the name of Her Majesty in right of the Province. *2000, c. 22, s. 48.*

Conflict

49 Where there is a conflict between any provision of this Act or the regulations and a more stringent provision of any other enactment, the more stringent provision prevails. *2000, c. 22, s. 49.*

Immunity from liability

50 Neither Her Majesty in right of the Province nor any marsh body is liable to pay compensation for any damages caused by flooding as a result of activities undertaken pursuant to this Act. *2000, c. 22, s. 50.*

Regulations

51 (1) The Minister may make regulations

- (a) prescribing accounting and bookkeeping methods and systems to be adopted by marsh bodies;
- (b) requiring marsh bodies to make reports and returns to the Commission;
- (c) prescribing and amending forms and agreements;
- (d) prescribing the terms and conditions for the issuing of permits for variance;
- (e) prescribing the procedures for hearing appeals by the Commission;
- (f) prescribing the manner in which the names and addresses of owners and the area of land is to be determined pursuant to Section 29;
- (g) providing for the examination and audit of accounts of marsh bodies and for the inspection and examination of works;
- (h) prescribing further or other or additional functions, duties or powers of the Commission;
- (i) designating structures that are not included within the meaning of "land" for the purpose of subsections 32(2) and (3);
- (ia) specifying land for the purpose of subsection 41(6);

(j) respecting any other matter or thing that the Minister considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) In making a regulation pursuant to clauses (1)(d) or (e), the Minister shall consult with each marsh body affected by the regulation and with each municipality in which lands affected by the regulation are located.

(3) Where there is a conflict between a regulation made by the Minister pursuant to this Act and a rule made by a marsh body pursuant to this Act, the regulation prevails.

(4) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act. 2000, c. 22, s. 51; 2001, c. 1, s. 2.

By-laws

52 (1) A marsh body may make by-laws

(a) prescribing the number of members on the executive committee of the marsh body and their terms of office;

(b) providing for the manner of calling meetings of members of the marsh body and of the executive committee and the procedure at such meetings;

(c) fixing the financial year of the marsh body;

(d) prescribing the frequency of general meetings of the marsh body;

(e) prescribing the frequency of reports and estimates;

(f) providing for the manner of voting at meetings of the marsh body;

(g) prescribing the procedures respecting the assessment list inspection and appeals;

(h) imposing an interest charge at the rate fixed by the by-law upon rates that are unpaid on July 1st or such later date in any year as is fixed by the by-law;

(i) repealed 2001, c. 1, s. 3.

(j) generally for the management and conduct of its business and affairs.

(2) The secretary of a marsh body shall file with the Commission a copy of by-laws and amendments made by the marsh body.

(3) The secretary of the Commission shall file with the Registrar of Regulations a copy of each rule made by a marsh body pursuant to clause 14(e) and publication in the Royal Gazette is proof of approval by the Commission. 2000, c. 22, s. 52; 2001, c. 1, s. 3.

Continuation of agreements

53 Each agreement made pursuant to the Marsh Act or the Marshland Reclamation Act and in effect immediately before the coming into force of this Act is hereby continued. 2000, c. 22, s. 53.

Designation not injurious affection

54 Property is deemed not to be injuriously affected by any designation referred to in clause 2(d). 2000, c. 22, s. 54.

Repeal

55 (1) Chapter 273 of the Revised Statutes, 1989, the Marsh Act, is repealed.

(2) Chapter 274 of the Revised Statutes, 1989, the Marshland Reclamation Act is repealed. 2000, c. 22, s. 55.

Effective dates

56 Sections 41, 42 and 43 have effect on and after November 7, 2000. 2000, c. 22, s. 56.

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