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Bill 159

An Act to amend various statutes in respect of consumer protection

The Hon. L. Thompson
Minister of Government and Consumer Services

Government Bill

1st Reading December 5, 2019
2nd Reading May 27, 2020
3rd Reading
Royal Assent

*(Reprinted as amended by the Standing Committee on General Government
and as reported to the Legislative Assembly July 6, 2020)*

(The provisions in this Bill will be renumbered after 3rd Reading)



This reprint of the Bill is marked to indicate the changes that were made in Committee.
The changes are indicated by underlines for new text and a ~~striketrough~~ for deleted text.

EXPLANATORY NOTE

SCHEDULE 1 CONDOMINIUM ACT, 1998

Various amendments are made to the *Condominium Act, 1998*. Among the amendments:

1. Changes are made to the Minister's powers with respect to the members of the board of the condominium authority. For example, the Minister may provide that no more than a fixed percentage of members of the board of directors shall be drawn from among the persons or classes of persons specified in the order.
2. The Minister may consult with the condominium authority about proposed legislative or policy changes.
3. The provisions regarding the liability of the condominium authority and of the Crown are modified to increase consistency among related pieces of legislation.
4. The Minister may require the condominium authority to make publicly available information relating to compensation and other payments made to its directors, officers and employees.
5. The Minister may appoint an administrator of the condominium authority, subject to certain limitations.

SCHEDULE 2 CONDOMINIUM MANAGEMENT SERVICES ACT, 2015

The *Condominium Management Services Act, 2015* is amended to reflect the fact that this Act will become "designated legislation" for the purposes of the *Safety and Consumer Statutes Administration Act, 1996*.

Also, the Minister may delegate some or all regulation-making power to the administrative authority subject to approval of the Minister.

SCHEDULE 3 CONSUMER PROTECTION ACT, 2002

The Schedule amends the *Consumer Protection Act, 2002* to add an administrative penalty scheme and to make related amendments. Amendments are also made to sections 111, 112 and 114 of the Act in relation to the enforcement of requirements under the Act.

SCHEDULE 4 NEW HOME CONSTRUCTION LICENSING ACT, 2017

The Schedule amends the *New Home Construction Licensing Act, 2017*. The majority of the amendments have the effect of permitting the regulatory authority under the Act to interact with the Corporation designated under the *Ontario New Home Warranties Plan Act* as applicable while that Act is in force. The provisions regarding the liability of the regulatory authority and the Crown are modified to increase consistency among related pieces of legislation. Other technical amendments are made, including amendments relating to the administrative agreement between the Minister and the regulatory authority and amendments relating to the regulation-making powers in the Act.

SCHEDULE 5 ONTARIO NEW HOME WARRANTIES PLAN ACT

The Schedule amends the *Ontario New Home Warranties Plan Act*.

Previous amendments to the Act provided for the Act's repeal. The Schedule provides that different provisions of the Act may be repealed on different dates by proclamation of the Lieutenant Governor. The Schedule amends the Act to provide for this phased repeal. The majority of the amendments have the effect of permitting the Corporation designated under the Act to interact, while the Act is in force and as applicable, with the regulatory authority under the *New Home Construction Licensing Act, 2017*.

Amendments are made to allow the Lieutenant Governor in Council to revoke the designation of the Corporation by regulation. The Lieutenant Governor in Council's regulation-making powers in the Act are expanded.

Amendments are made relating to the entering into of an administrative agreement between the Minister and the Corporation. Failure to enter into an administrative agreement in accordance with the Act is added as a reason for which the Minister may appoint an individual as an administrator of the Corporation for the purposes of assuming control of it and responsibility for its activities.

The provisions regarding the liability of the Corporation and of the Crown are modified to increase consistency among related pieces of legislation.

Other technical and complementary amendments are made.

**SCHEDULE 6
RESOURCE RECOVERY AND CIRCULAR ECONOMY ACT, 2016**

The *Resource Recovery and Circular Economy Act, 2016* is amended to permit the Minister to appoint the chair of the board of directors of the Resource Productivity and Recovery Authority.

The Minister may also require the Authority to make publicly available information relating to compensation and other payments made to its directors, officers and employees.

**SCHEDULE 7
RETIREMENT HOMES ACT, 2010**

The *Retirement Homes Act, 2010* is amended. Among the amendments:

1. The powers of the Minister to establish rules concerning who may be a member of the board of directors of the Retirement Homes Regulatory Authority (“the Authority”) are modified, including providing a power to require that no more than a fixed percentage of members of the board shall be drawn from among the persons or classes of persons specified in the order.
2. It is provided that a Minister’s order prevails over a memorandum of understanding with the Authority and the Authority’s by-laws and resolutions.
3. The Authority’s objects are amended to include suggesting amendments to legislation.
4. The Authority is required to promptly inform and advise the Minister with respect to information that could affect its ability to perform its duties, and about matters that likely require the Minister’s action.
5. The Act is amended to allow the Minister to issue an order requiring the Authority to make available to the public information respecting compensation it pays to its board, officers and employees.
6. The Minister is required to publish orders that the Minister makes under the Act.
7. The rules governing Crown liability are modified to increase standardization with other legislation.
8. The Authority is prohibited from engaging in commercial activity through related individuals, corporations or entities.

Various other amendments are made.

**SCHEDULE 8
SAFETY AND CONSUMER STATUTES ADMINISTRATION ACT, 1996**

Various amendments are made to the *Safety and Consumer Statutes Administration Act, 1996*. Among the amendments:

1. Designated administrative authorities are prohibited from engaging in commercial activity through a related individual, corporation or other entity.
2. Changes are made to the Minister’s powers with respect to the members of the board of designated administrative authorities. For example, the Minister may provide that no more than a fixed percentage of members of the board shall be drawn from among the persons or classes of persons specified in the order.
3. Designated administrative authorities are required to advise the Minister about information that could affect their ability to perform their duties and about other urgent and crucial matters.
4. The provisions regarding the liability of designated administrative authorities and of the Crown are modified to increase consistency among related pieces of legislation.
5. It is provided that persons have the right to deal with designated administrative authorities in French, subject to certain limitations.
6. The Minister may require designated administrative authorities to make publicly available information relating to compensation and other payments made to their directors, officers and employees.
7. The Minister may appoint an administrator of a designated administrative authority, subject to certain limitations.
8. The *Condominium Management Services Act, 2015* is made designated legislation for the purposes of the Act.
9. The *Delegated Administrative Authorities Act, 2012* is repealed.

SCHEDULE 9
TECHNICAL STANDARDS AND SAFETY ACT, 2000

Various amendments are made to the *Technical Standards and Safety Act, 2000*. Among the amendments:

1. The Technical Standards and Safety Authority (the “Corporation”) is prohibited from engaging in commercial activity through a related individual, corporation or other entity.
2. Changes are made to the Minister’s powers with respect to the members of the board of the Corporation. For example, the Minister may provide that no more than a fixed percentage of members of the board shall be drawn from among the persons or classes of persons specified in the order, and may set competency criteria for members.
3. The Corporation is required to advise the Minister about information that could affect its ability to perform its duties and about other urgent and crucial matters.
4. The provisions regarding the liability of the Corporation and of the Crown are modified to increase consistency among related pieces of legislation.
5. It is provided that persons have the right to deal with the Corporation in French, subject to certain limitations.
6. The Minister may require the Corporation to make publicly available information relating to compensation and other payments made to its directors, officers and employees.
7. Changes are made regarding the consequences of the Minister appointing an administrator of the Corporation, and the Minister’s ability to appoint an administrator is made subject to certain limitations.

SCHEDULE 10
TICKET SALES ACT, 2017

The Schedule amends the *Ticket Sales Act, 2017* to require ticket businesses to ensure that the ticket purchaser is offered a ticket, and charged, in Canadian currency.

An Act to amend various statutes in respect of consumer protection**CONTENTS**

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Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

Contents of this Act

1 This Act consists of this section, sections 2 and 3 and the Schedules to this Act.

Commencement

2 (1) Subject to subsections (2) and (3), this Act comes into force on the day it receives Royal Assent.

(2) The Schedules to this Act come into force as provided in each Schedule.

(3) If a Schedule to this Act provides that any of its provisions are to come into force on a day to be named by proclamation of the Lieutenant Governor, a proclamation may apply to one or more of those provisions, and proclamations may be issued at different times with respect to any of those provisions.

Short title

3 The short title of this Act is the *Rebuilding Consumer Confidence Act, 2020*.

**SCHEDULE 1
CONDOMINIUM ACT, 1998**

1 Subsection 1.2 (2) of the *Condominium Act, 1998* is amended by adding the following paragraph:

- 3.1 The financial terms of the delegation, including payments to the Crown, licence fees, royalties and reimbursements for transfer of assets.

2 The Act is amended by adding the following section:

Consultation

1.3.1 The Minister may consult with the condominium authority about proposed legislative or policy changes that may affect the authority and its activities.

3 (1) Section 1.5 of the Act is amended by adding the following section:

Reviews, terms and conditions

(1.1) The Minister may impose terms and conditions relating to any review the Minister requires under subsection (1).

(2) Subsection 1.5 (2) of the Act is amended by adding “or agents” after “the employees”.

4 Section 1.6 of the Act is repealed and the following substituted:

Conflict

1.6 The following rules apply respecting conflicts that may arise in applying this Part, Part I.2 and the regulations:

1. This Part, Part I.2, the regulations and the delegated provisions prevail over the administrative agreement and the condominium authority’s constating documents, by-laws and resolutions.
2. An order made under subsection 1.6.1 (1), 1.9 (1), 1.10 (4) or 1.13.2 (1) or section 1.11 prevails over the administrative agreement and the condominium authority’s constating documents, by-laws and resolutions.
3. This Part, Part I.2 and the regulations prevail over the *Corporations Information Act*.

Minister’s authority to appoint administrator

1.6.1 (1) Subject to section 1.8, the Minister may, by order, appoint an individual as an administrator of the condominium authority for the purposes of assuming control of it and responsibility for its activities.

Notice of appointment

(2) The Minister shall give the condominium authority’s board of directors the notice that the Minister considers reasonable in the circumstances before appointing the administrator.

Immediate appointment

(3) Subsection (2) does not apply if there are not enough members on the board to form a quorum.

Term of appointment

(4) The appointment of the administrator is valid until the Minister makes an order terminating it.

Powers and duties of administrator

(5) Unless the order appointing the administrator provides otherwise, the administrator has the exclusive right to exercise all the powers and perform all the duties of the directors, officers and members of the condominium authority.

Same

(6) In the order appointing the administrator, the Minister may specify the administrator’s powers and duties and the conditions governing them.

Right of access

(7) The administrator has the same rights as the board in respect of the condominium authority’s documents, records and information.

Report to Minister

(8) The administrator shall report to the Minister as the Minister requires.

Minister’s directions

(9) The Minister may issue directions to the administrator with regard to any matter within the administrator’s jurisdiction, and the administrator shall carry them out.

No personal liability

(10) No action or other proceeding shall be instituted against the administrator or a former administrator for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations made under this Act, a Minister's order or the appointment under subsection (1), or,
- (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a).

Crown liability

(11) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (10) of this section does not relieve the Crown of liability to which it would otherwise be subject.

Liability of condominium authority

(12) Subsection (10) does not relieve the condominium authority of liability to which it would otherwise be subject.

Status of board during administrator's tenure

1.6.2 (1) On the appointment of an administrator under section 1.6.1, the members of the board of directors of the condominium authority cease to hold office, unless the order provides otherwise.

Same

(2) During the term of the administrator's appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise.

No personal liability

(3) No action or other proceeding shall be instituted against a member or former member of the board of the condominium authority for any act, neglect or default done by the administrator or the condominium authority after the member's removal under subsection (1) or while the member's powers are suspended under subsection (2).

Crown liability

(4) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (3) of this section does not relieve the Crown of liability to which it would otherwise be subject.

Liability of condominium authority

(5) Subsection (3) does not relieve the condominium authority of liability to which it would otherwise be subject.

5 (1) Subsection 1.7 (1) of the Act is amended by striking out "revoke the designation" and substituting "revoke or restrict the scope of the designation".

(2) Subsection 1.7 (2) of the Act is amended by striking out "revoke the designation" in the portion before clause (a) and substituting "revoke or restrict the scope of the designation".

(3) Subsections 1.7 (4) and (5) of the Act are repealed and the following substituted:

Revocation on request

(4) The Lieutenant Governor in Council may, by regulation, revoke or restrict the scope of the designation of the condominium authority on the terms that the Lieutenant Governor in Council considers advisable in the public interest if the authority requests the revocation or restriction.

Non-application of SPPA

(5) The *Statutory Powers Procedure Act* does not apply to the exercise by the Lieutenant Governor in Council of a right under this section to revoke or restrict a designation.

Transition

(6) If the Lieutenant Governor in Council revokes or restricts the designation of the condominium authority under this section, the Lieutenant Governor in Council may, by regulation, provide for any transitional matter necessary for the effective implementation of the revocation or restriction, including,

- (a) the transfer, without compensation, of any property, including assets, liabilities, rights, obligations, records, databases, bank accounts and money, that the condominium authority holds in respect of carrying out its activities under the Act, a regulation and the administrative agreement; and
- (b) the assignment, without compensation, of any contracts that the authority has entered into before the revocation.

No Crown liability

(7) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of the revocation or restriction of the designation of the condominium authority or any regulation made under subsection (6).

No proceeding

(8) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (7).

6 (1) Section 1.8 of the Act is amended by striking out “1.3 (1) or 1.24 (1)” in the portion before paragraph 1 and substituting “1.3 (1), 1.6.1 (1) or 1.24 (1)”.

(2) Paragraph 3 of section 1.8 of the Act is amended by striking out “is insolvent” at the end and substituting “is facing a risk of insolvency”.

7 Subsection 1.9 (3) of the Act is repealed.

8 (1) Subsection 1.10 (1) of the Act is amended by adding “at pleasure” after “may appoint”.

(2) Section 1.10 of the Act is amended by adding the following subsection:

Percentages of board members

(4) The Minister may, by order, provide that no more than a fixed percentage of members of the board of directors shall be drawn from among the persons or classes of persons specified in the order.

9 Section 1.13 of the Act is repealed and the following substituted:

Public access to corporate by-laws

1.13 The condominium authority shall make its corporate by-laws available on its website and by any other means that the condominium authority determines,

- (a) within the time and manner specified in the administrative agreement; or
- (b) within 10 days after the by-laws are made by the board of directors, if no time is specified in the administrative agreement.

Public access to information

1.13.1 The condominium authority shall follow the prescribed processes and procedures, if any, with respect to providing access to the public to records of the authority and with respect to managing personal information contained in those records.

Disclosure of compensation and other payments

1.13.2 (1) The Minister may, by order, require the condominium authority to make available to the public, on its website and by any other means that the condominium authority determines, any information specified by the Minister relating to,

- (a) the compensation that the condominium authority pays to members of its board of directors, its officers and its employees; and
- (b) any other payments that the condominium authority makes or is required to make to the persons mentioned in clause (a).

Information for prior period

(2) An order made under subsection (1) may require that the condominium authority make available to the public information referred to in that subsection with respect to a member of the board or one of its officers who was in office on the day this section came into force or an individual who was one of its employees on that day, where the information is for a period that began before that day.

Effect of compliance

(3) If the condominium authority makes information available to the public in accordance with an order made under subsection (1) or in the reasonable belief that action is required by the order, no court, person or other entity shall find that the condominium authority,

- (a) has contravened any Act enacted or regulation made before or after this section came into force; or
- (b) is in breach of or has contravened any agreement that purports to restrict or prohibit that action, regardless of whether the agreement is made before or after this section came into force.

Definition

(4) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments.

10 Sections 1.16 and 1.17 of the Act are repealed and the following substituted:

No personal liability, employee of the Crown

1.16 (1) No action or other proceeding shall be instituted against a current or former employee of the Crown for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order; or
- (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a).

Tort by employee of the Crown

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject.

No Crown liability

1.17 (1) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order.

No proceeding

(2) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or loss based on or related to any cause of action described in subsection (1).

Application

(3) Without limiting the generality of subsection (2), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada.

Same, revocation or restriction

(4) Section 1.16 and subsections (1) to (3) of this section apply, with necessary modifications, in respect of a direct or indirect result of the revocation or restriction of a designation under section 1.7 or any regulation made under subsection 1.7 (6).

11 Section 1.18 of the Act is repealed and the following substituted:

Indemnification of the Crown

1.18 The condominium authority shall indemnify the Crown, in accordance with the administrative agreement, in respect of damages and costs incurred by the Crown for any act or omission of the authority or its members, officers, directors, employees or agents in the exercise or performance or intended exercise or performance of their powers and duties under this Act, the regulations, a Minister's order or the administrative agreement, or for any act or omission otherwise connected to this Act, the regulations, a Minister's order or the administrative agreement.

12 Section 1.19 of the Act is repealed and the following substituted:

No personal liability, board members and others

1.19 (1) No action or other proceeding shall be instituted against a person mentioned in subsection (2), or someone who was formerly such a person, for an act done in good faith in the exercise or performance or intended exercise or performance of any of the person's powers or duties under this Act or the regulations or for any neglect or default in the exercise or performance in good faith of such a power or duty.

Same

(2) Subsection (1) applies to,

- (a) the Registrar;
- (b) deputy Registrars appointed under subsection 9.1 (1);
- (c) members of the board of directors of the condominium authority;
- (d) persons who perform functions under this Act or the regulations as employees, agents or officers of the condominium authority or as persons whose services it retains;
- (e) members of committees of the condominium authority who perform functions under this Act or the regulations; and
- (f) members of the Condominium Authority Tribunal, if it has been established under Part I.2.

Liability of condominium authority

(3) Subsection (1) does not relieve the condominium authority of liability to which it would otherwise be subject in respect of the acts or omissions of a person mentioned in subsection (2).

13 Section 1.22 of the Act is repealed and the following substituted:

Annual report

1.22 (1) The board of directors of the condominium authority shall annually report to the Minister on its activities and financial affairs as they relate to this Act, the regulations and the administrative agreement.

Form and contents

(2) The report shall be in a form acceptable to the Minister and shall provide the information that the Minister requires.

Disclosure by board

(3) The board of the condominium authority shall publish the report on its website and by any other method within the period and in the manner the Minister requires.

14 Subsection 1.25 (4) of the Act is amended by adding “and to any exemptions that may be provided for in the regulations” at the end.

15 Subsection 1.28 (1) of the Act is repealed and the following substituted:

Advice of condominium authority

(1) The condominium authority shall advise or report to the Minister, within the time period that the Minister specifies, on any matter that the Minister refers to it and that relates to this Part, Part I.2 or the administration of the delegated provisions.

16 The Act is amended by adding the following section:

Publication of order

1.30.1 The Minister shall publish any orders that the Minister makes under this Act on a website of the Government of Ontario.

16.0.1 Clauses 2 (2.1) (b) and (c) of the Act are repealed and the following substituted:

(b) the builder, within the meaning of the *New Home Construction Licensing Act, 2017*, is licensed as a builder in respect of that project under that Act; and

(c) the vendor, within the meaning of the *New Home Construction Licensing Act, 2017*, is licensed as a vendor in respect of that project under that Act.

16.1 (1) Section 132 of the Act is amended by adding the following subsection:

Non-application

(4.1) Subsections (1) and (4) do not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under Part I.2 if the Tribunal has been established under that Part.

(2) Section 132 of the Act is amended by adding the following subsections:

No order for permanent removal of person

(8) If a disagreement is submitted to arbitration under this section, the arbitral tribunal shall not make an award requiring a person to vacate a property permanently.

Copy of arbitration award

(9) If a matter is submitted to arbitration under this section, the arbitral tribunal that makes an award as part of the arbitration shall ensure that a copy of the award is delivered to the following person or body within the prescribed time period and in accordance with the regulations:

1. The board of the condominium authority, if the authority exists.
2. The Minister, if there is no condominium authority.

Same, copy for public

(10) Upon receiving a copy described in subsection (9), the board of the condominium authority or the Minister, as the case may be, shall make it available to the public in the prescribed manner.

16.2 (1) Section 134 of the Act is amended by adding the following subsections:

Notice to owner

(2.1) Subject to subsections (2.2) and (2.3), a person is not entitled to apply for an order requiring an occupier of an owner's unit or any or all of the invitees, agents and employees of the owner or occupier to vacate a property permanently unless the applicant gives reasonable notice of the application to the owner.

Service of notice

(2.2) Despite subsection 47 (4), if the applicant is not the corporation, the applicant shall give the notice in the prescribed manner.

Exception, no notice

(2.3) An applicant is not required to give the notice described in subsection (2.1) in the event of the circumstances that are prescribed, which may include an emergency or other event.

(2) Section 134 of the Act is amended by adding the following subsection:

Non-application

(2.4) This section does not apply to any matter in dispute for which a person may apply for resolution under section 1.36 to the Condominium Authority Tribunal established under Part I.2, if the Tribunal has been established under that Part.

17 Subsection 177 (1) of the Act is amended by adding the following paragraph:

0.1.1 exempting services from the application of section 1.25;

Protecting Condominium Owners Act, 2015

17.1 (1) Subsection 114 (6) of Schedule 1 to the *Protecting Condominium Owners Act, 2015* is repealed.

(2) Subsection 116 (3) of Schedule 1 to the Act is repealed.

Commencement

18 (1) Subject to subsection (2), this Schedule comes into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

(2) Sections 11, 16, 16.1 and 16.2 Sections 11 and 16 to 16.2 come into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 2
CONDOMINIUM MANAGEMENT SERVICES ACT, 2015

1 (1) The definitions of “administrative agreement” and “delegated provisions” in subsection 1 (1) of the *Condominium Management Services Act, 2015* are repealed.

(2) The definition of “administrative authority” in subsection 1 (1) of the Act is repealed and the following substituted:
“administrative authority” means the administrative authority designated under section 3 of the *Safety and Consumer Statutes Administration Act, 1996* for the purpose of administering this Act; (“organisme d’application”)

2 The heading to Part II of the Act is repealed and the following substituted:

PART II
OFFICERS

3 Sections 2 to 30 of the Act are repealed.

4 Section 33 of the Act is repealed.

5 Paragraph 5 of subsection 58 (4) of the Act is amended by adding “Despite subsection 12 (1) of the *Safety and Consumer Statutes Administration Act, 1996*” at the beginning.

6 Subsection 68 (1) of the Act is amended by striking out “other than the administrative authority” in the portion before clause (a).

7 Section 77 of the Act is amended by adding the following subsections:

Delegation

(2.1) Despite subsection 3 (4) of the *Safety and Consumer Statutes Administration Act, 1996*, the Minister may, by regulation, delegate to the board of the administrative authority the power to make some or all of the regulations under subsection (1), subject to the approval of the Minister.

Approval

(2.2) The Minister may approve or refuse to approve the regulations but approval shall not be given unless, in the Minister’s opinion, they have been made in accordance with the consultation criteria and process set out in the administrative agreement described in subsection 4 (1) of the *Safety and Consumer Statutes Administration Act, 1996*.

Revocation, transition

(2.3) The Minister may, by regulation, revoke a delegation to the board of the administrative authority under subsection (2.1), but the revocation of a delegation does not result in the revocation of any regulation made by the board of the administrative authority under the delegated power before the revocation of the delegation, and the board’s regulation remains valid.

Residual authority to act

(2.4) Despite any delegation under this section to the board of the administrative authority and without having to revoke the delegation, the Minister continues to have authority to make regulations in respect of the matter that is the subject of the delegation.

8 Subsection 78 (4) of the Act is repealed and the following substituted:

Minister and board regulations preserved

(4) The Lieutenant Governor in Council may, by regulation, revoke a delegation to the Minister under paragraph 26 of subsection (1), but the revocation of a delegation does not result in the revocation of any regulation made by the Minister under the delegated power, or by the board of the administrative authority pursuant to a delegation by the Minister under subsection 77 (2.1), and the Minister’s or board’s regulation remains valid.

Commencement

9 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 3
CONSUMER PROTECTION ACT, 2002**

1 Section 1 of the *Consumer Protection Act, 2002* is amended by adding the following definition:

“administrative penalty” means an administrative penalty imposed under section 104.0.1; (“pénalité administrative”)

2 The Act is amended by adding the following Part:

**PART X.1
ADMINISTRATIVE PENALTIES**

Order

104.0.1 (1) If the Director is satisfied that a person has contravened or is contravening a prescribed provision of this Act or the regulations, the Director may, by order, impose an administrative penalty against the person in accordance with this section and the regulations made by the Minister.

Purpose

(2) An administrative penalty may be imposed under this section for one or more of the following purposes:

1. To ensure compliance with this Act and the regulations.
2. To prevent a person from deriving, directly or indirectly, any economic benefit as a result of contravening a provision of this Act or the regulations.

Amount

(3) The amount of an administrative penalty shall reflect the purposes of the penalty and shall be the amount prescribed by the Minister, which amount shall not exceed \$50,000.

Form of order

(4) An order made under subsection (1) imposing an administrative penalty against a person shall be in the form that the Director determines.

Absolute liability

(5) An order made under subsection (1) imposing an administrative penalty against a person applies even if,

- (a) the person took all reasonable steps to prevent the contravention on which the order is based; or
- (b) at the time of the contravention, the person had an honest and reasonable belief in a mistaken set of facts that, if true, would have rendered the contravention innocent.

No effect on offences

(6) For greater certainty, nothing in subsection (5) affects the prosecution of an offence.

Other measures

(7) Subject to section 104.0.3, an administrative penalty may be imposed alone or in conjunction with the exercise of any measure against a person provided by this Act or the regulations.

Limitation

(8) The Director shall not make an order under subsection (1) more than two years after the day the Director became aware of the person’s contravention on which the order is based.

No hearing required

(9) Subject to the regulations made by the Minister, the Director is not required to hold a hearing or to afford a person an opportunity for a hearing before making an order under subsection (1) against the person.

Non-application of other Act

(10) The *Statutory Powers Procedure Act* does not apply to an order of the Director made under subsection (1) of this section.

Appeal

104.0.2 (1) The person against whom an order made under subsection 104.0.1 (1) imposes an administrative penalty may appeal the order to the person designated under subsection (8) of this section by delivering a written notice of appeal to that person within 15 days after receiving the order.

Extension of time for appeal

(2) The person designated under subsection (8) may extend the time period for appealing and may determine the circumstances in which extensions are given.

Form of notice

(3) The notice of appeal shall be in the form that the person designated under subsection (8) determines.

Filing of notice

(4) The person against whom the order imposing the administrative penalty is made shall file the notice of appeal in the manner that the person designated under subsection (8) determines.

Stay

(5) An appeal commenced in accordance with subsection (1) operates as a stay of the order until disposition of the appeal.

Opportunity for submissions

(6) Before disposing of an appeal, the person designated under subsection (8) shall give the person against whom the order imposing the administrative penalty is made a reasonable opportunity to make written submissions.

Powers on appeal

(7) On an appeal, the person designated under subsection (8) may confirm, revoke or vary the order within the limits, if any, established by the regulations made by the Minister.

Designation of person to whom appeals made

(8) The Minister shall designate a person to whom appeals may be made under this section.

Non-application of other Act

(9) The *Statutory Powers Procedure Act* does not apply to an appeal made under this section.

Effect of paying penalty

104.0.3 If a person against whom an order imposing an administrative penalty is made pays the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the person cannot be charged with an offence under this Act in respect of the same contravention on which the order is based and no other prescribed measure shall be taken against the person in respect of the same contravention on which the order is based.

Enforcement

104.0.4 (1) If a person against whom an order imposing an administrative penalty is made fails to pay the penalty in accordance with the terms of the order or, if the order is varied on appeal, in accordance with the terms of the varied order, the order may be filed with the Superior Court of Justice and enforced as if it were an order of the court.

Date of order

(2) For the purposes of section 129 of the *Courts of Justice Act*, the date on which the order is filed with the court shall be deemed to be the date of the order.

Debt due to Crown

(3) An administrative penalty that is not paid in accordance with the terms of the order imposing it or, if the order is varied on appeal, in accordance with the terms of the varied order is a debt due to the Crown and is enforceable as such.

3 Subsection 105.3 (1) of the Act is amended by adding the following paragraph:

0.1 Section 104.0.1.

4 Subsection 111 (1) of the Act is repealed and the following substituted:**Compliance order**

(1) If the Director believes on reasonable grounds that a person has engaged or is engaging in any activity that contravenes any requirement under this Act, whether the activity constitutes an offence or not, the Director may propose to make an order directing the person to comply with the requirement.

Order for refund

(1.1) For greater certainty, if the Director proposes to make an order under subsection (1) that a person comply with clause 96 (1) (a), the proposed order may specify the amount of the refund described in that clause and include a direction to the person to pay that amount.

5 (1) Subsection 112 (1) of the Act is amended by striking out “with this Act” and substituting “with a requirement under this Act”.**(2) Section 112 of the Act is amended by adding the following subsection:**

Order for refund

(1.1) For greater certainty, if the Director makes an order for immediate compliance requiring that a person comply with clause 96 (1) (a), the order may specify the amount of the refund described in that clause and include a direction to the person to pay that amount.

6 Subsection 114 (1) of the Act is amended by adding the following clause:

- (a.1) to refund to a consumer who cancelled a consumer agreement any payment made under the agreement or any related agreement;

7 (1) Subsection 119 (1) of the Act is repealed and the following substituted:

Liens and charges — administrative penalties and offences

(1) If a fine payable as a result of a conviction for an offence under this Act or an administrative penalty is in default for at least 60 days, the Director may by order create a lien against the property of the person who is liable to pay the fine or administrative penalty.

(2) **Subsection 119 (3) of the Act is amended by adding “or administrative penalty” after “fine”.**

(3) **Subsection 119 (5) of the Act is amended by adding “or administrative penalty” at the end.**

(4) **Subsection 119 (6) of the Act is amended by adding “or administrative penalty” after “fine” in the portion before clause (a).**

8 Clause 123 (1) (a) of the Act is repealed and the following substituted:

- (a) prescribing anything in this Act that is described as being prescribed, done in accordance with the regulations or provided for in the regulations, other than a matter that this Act describes as being prescribed by the Minister or provided for in regulations made by the Minister;

9 Section 124 of the Act is repealed and the following substituted:

Minister’s regulations

124 The Minister may make regulations,

- (a) governing any matter that this Act describes as being prescribed by the Minister or provided for in regulations made by the Minister;
- (b) specifying different administrative penalties for the contravention of different prescribed provisions of this Act or the regulations, different portions of those prescribed provisions or different prescribed requirements in those prescribed provisions;
- (c) governing the procedure for making an order under section 104.0.1 for an administrative penalty and the rights of the parties affected by the procedure, including the time at which the order is deemed to be served on the person against whom the order is made;
- (d) providing that the prescribed amount of an administrative penalty mentioned in subsection 104.0.1 (3) shall be calculated on the basis specified in the regulation, including an amount reflecting the number of transactions involved in the contravention on which an order for the administrative penalty is based.

Commencement

10 (1) Subject to subsection (2), this Schedule comes into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

(2) Sections 1 to 3 and 7 to 9 come into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 4
NEW HOME CONSTRUCTION LICENSING ACT, 2017**

1 (0.1) The definition of “builder” in subsection 1 (1) of the *New Home Construction Licensing Act, 2017* is repealed and the following substituted:

“builder” has the same meaning as “builder” as defined in section 1 of the *Ontario New Home Warranties Plan Act*; (“constructeur”)

(1) The definition of “new home” in subsection 1 (1) of the *New Home Construction Licensing Act, 2017* of the Act is repealed and the following substituted:

“new home” has the same meaning as “home” as defined in section 1 of the *Ontario New Home Warranties Plan Act*; (“logement neuf”)

(1.1) The definition of “owner” in subsection 1 (1) of the Act is repealed and the following substituted:

“owner” has the same meaning as “owner” as defined in section 1 of the *Ontario New Home Warranties Plan Act*; (“propriétaire”)

(1.2) The definition of “vendor” in subsection 1 (1) of the Act is repealed and the following substituted:

“vendor” has the same meaning as “vendor” as defined in section 1 of the *Ontario New Home Warranties Plan Act*; (“vendeur”)

(2) The definition of “warranty authority” in subsection 1 (1) of the Act is repealed and the following substituted:

“warranty authority” has the same meaning as “Corporation” as defined in section 1 of the *Ontario New Home Warranties Plan Act*. (“organisme de garantie”)

2 Subsection 3 (3) of the Act is repealed and the following substituted:

Compliance with operating principles

(3) In addition to the terms required under subsection (2), the administrative agreement shall require the regulatory authority to comply with the principles of,

- (a) maintaining a fair, safe and informed marketplace; and
- (b) promoting the protection of the public interest.

3 (1) Subsection 4 (4) of the Act is amended by striking out the portion before clause (a) and substituting the following:

Content of agreements

(4) The information sharing agreements mentioned in subsection (3) shall include, at a minimum, terms relating to the prescribed matters, which may include,

.

(2) Subsection 4 (4) of the Act is amended by striking out “and” at the end of clause (l), by adding “and” at the end of clause (m) and by adding the following clause:

- (n) all other content that is prescribed.

(3) Subsection 4 (5) of the Act is amended by striking out “An information sharing agreement” at the beginning and substituting “The information sharing agreements”.

4 Clause 7 (b) of the Act is repealed and the following substituted:

- (b) the *Corporations Information Act* and the regulations made under it; and

5 Subsection 11 (1) of the Act is amended by striking out “that are prescribed” at the end and substituting “set out in the regulation”.

5.1 Section 17 of the Act is repealed and the following substituted:

Limits on liability

No personal liability, employee of the Crown

17 (1) No action or other proceeding shall be instituted against a current or former employee of the Crown for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister’s order; or
- (b) any neglect or default in the exercise or performance in good faith of such a duty or power.

Tort by employee of the Crown

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject.

No Crown liability

(3) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order.

Same

(4) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (3).

Application

(5) Without limiting the generality of subsection (4), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada.

Revocation

(6) Subsections (1) to (5) apply, with necessary modifications, in respect of a direct or indirect result of the revocation of a designation under section 8 or of any regulation made under subsection 8 (6).

5.2 Section 18 of the Act is repealed and the following substituted:

Indemnification

18 The regulatory authority shall indemnify the Crown, in accordance with the administrative agreement, in respect of damages and costs incurred by the Crown for any act or omission of the regulatory authority or its members, officers, directors, employees or agents in the exercise or performance or intended exercise or performance of their duties and powers under this Act, the regulations, a Minister's order, the administrative agreement or the information sharing agreements, or for any act or omission otherwise connected to this Act, the regulations, a Minister's order, the administrative agreement or the information sharing agreements.

5.3 Section 19 of the Act is repealed and the following substituted:

No personal liability

19 (1) No action or other proceeding shall be instituted against a person mentioned in subsection (2), or who was formerly such a person, for any act done in good faith in the exercise or performance or intended exercise or performance of any of the person's duties or powers under this Act, the regulations or a Minister's order, or for any neglect or default in the exercise or performance in good faith of such a duty or power.

Application

(2) Subsection (1) applies to the following persons:

1. The registrar.
2. A deputy registrar.
3. The Director.
4. A Deputy Director.
5. An inspector.
6. An investigator.
7. An assessor.
8. A director or officer of the regulatory authority.
9. A person whom the regulatory authority employs or whose services the regulatory authority retains.
10. An agent of the regulatory authority.
11. A member of the discipline committee under subsection 57 (1), of the appeals committee under subsection 57 (2) or of a committee or an advisory body of the regulatory authority.
12. The person, if any, prescribed by the Minister for the purpose of the definition of "appeal body" in subsection 77 (1).

Liability of regulatory authority

(3) Subsection (1) does not relieve the regulatory authority of liability to which it would otherwise be subject in respect of the acts or omissions of a person mentioned in subsection (2).

5.4 Section 20 of the Act is repealed.

6 Subsection 33 (1) of the Act is amended by striking out “shall participate, as prescribed” in the portion before clause (a) and substituting “shall participate, in accordance with the administrative agreement and the regulations, if any”.

7 Section 34 of the Act is repealed and the following substituted:

Information for registrar

34 (1) The registrar may require vendors, builders and other prescribed persons to disclose to the registrar, in accordance with the regulations,

- (a) information that is related to the administration of this Act; and
- (b) any information that is prescribed.

Information provision

(2) The regulatory authority shall provide the information that is disclosed to the registrar under subsection (1) to such persons as may be required under the information sharing agreements or the regulations and shall do so in such manner and within such time as may be required under the information sharing agreements or the regulations.

8 Subsection 40 (4) of the Act is amended by adding “that the Registrar appointed by the Corporation within the meaning of the *Ontario New Home Warranties Plan Act* requires the registrar to attach to the licence under subsection 10.3 (9) or 17.4 (2.2) of that Act or” after “the conditions”.

9 Section 48 of the Act is amended by adding “in subsection 13 (1) of the *Ontario New Home Warranties Plan Act* or” after “described”.

10 Subsection 65 (2) of the Act is amended by adding “the *Ontario New Home Warranties Plan Act* or” after “guarantee fund under” in the portion before clause (a).

11 Subclause 66 (1) (b) (ii) of the Act is amended by adding “the *Ontario New Home Warranties Plan Act* or” after “guarantee fund under”.

12 Subsection 73 (3) of the Act is repealed and the following substituted:

Transition

(3) If a fine is payable as a result of a conviction under the *Ontario New Home Warranties Plan Act*, the Director may, in the prescribed circumstances, treat the fine as if it were payable as a result of a conviction under this Act, and in those circumstances subsections (1) and (2) apply with respect to the fine as if it were a fine payable for a conviction under this Act.

13 Clause 76 (1) (b) of the Act is amended by adding “the *Ontario New Home Warranties Plan Act* or the regulations made under it or” after “provision of”.

14 Clause 82 (1) (j) of the Act is amended by adding “under section 5.6 of the *Ontario New Home Warranties Plan Act* or” after “receives”.

15 (1) Subsection 84 (1) of the Act is amended by adding the following clause:

- (0.a) specifying any matter that is described in this Act as prescribed by the Minister or dealt with in the regulations made by the Minister;
- (2) Clause 84 (1) (h) of the Act is amended by adding the following subclause:**
- (0.i) prescribing provisions for the purpose of subsection 76 (1),

16 Section 86 of the Act is repealed and the following substituted:

Transition — vendors

86 On the day this section comes into force, a person who was registered as a vendor under the *Ontario New Home Warranties Plan Act* immediately before this section came into force is deemed to be licensed as a vendor under this Act.

17 The Act is amended by adding the following section:

Transition — builders

86.1 On the day this section comes into force, a person who was registered as a builder under the *Ontario New Home Warranties Plan Act* immediately before this section came into force is deemed to be licensed as a builder under this Act.

18 The Act is amended by adding the following section:

Transition — applications

86.2 On the day this section comes into force, an application for registration or renewal of registration as a vendor or builder within the meaning of the *Ontario New Home Warranties Plan Act* that has not been disposed of under that Act before the day this section came into force is deemed to be an application for a licence or renewal of a licence, as the case may be, as a vendor or as a builder, as the case may be, under this Act.

19 The Act is amended by adding the following section:

Transition — proceedings

86.3 On the day this section comes into force, a prescribed proceeding that the Corporation within the meaning of the *Ontario New Home Warranties Plan Act* had commenced as of the day before this section came into force is continued as a proceeding of the regulatory authority under this Act.

Protecting What Matters Most Act (Budget Measures), 2019

19.1 Subsection 125 (1) of Schedule 17 to the *Protecting What Matters Most Act (Budget Measures), 2019* is repealed.

Strengthening Protections for Ontario Consumers Act, 2017

20 Subsections 87 (1) and 91 (2) of Schedule 1 to the *Strengthening Protections for Ontario Consumers Act, 2017* are repealed.

Commencement

21 (1) Subject to subsection (2), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 19.1, section 20 and this section come into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

SCHEDULE 5
ONTARIO NEW HOME WARRANTIES PLAN ACT

1 (1) Section 1 of the *Ontario New Home Warranties Plan Act* is amended by adding the following definition:

“administrative agreement” means the agreement described in section 2.0.1; (“accord d’application”)

(2) Section 1 of the Act is amended by adding the following definitions:

“common elements” means all the condominium property except the condominium units; (“parties communes”)

“common elements condominium corporation”, “common expenses” and “common interest” have the same meaning as in the *Condominium Act, 1998*; (“association condominiale de parties communes”, “dépenses communes”, “intérêt commun”)

“condominium corporation” means a corporation as defined in subsection 1 (1) of the *Condominium Act, 1998*; (“association condominiale”)

“condominium declaration” means a declaration as defined in subsection 1 (1) of the *Condominium Act, 1998*; (“déclaration de condominium”)

“condominium property” means property as defined in subsection 1 (1) of the *Condominium Act, 1998*; (“propriété condominiale”)

“condominium unit” means a unit as defined in subsection 1 (1) of the *Condominium Act, 1998*; (“partie privative de condominium”)

(3) Clause (c) of the definition of “home” in section 1 of the Act is repealed and the following substituted:

- (c) a condominium unit that is a residential dwelling, including the common elements in respect of which the unit has an appurtenant common interest as described in the condominium declaration of the condominium corporation, or

(4) Section 1 of the Act is amended by adding the following definition:

“information sharing agreement” means an agreement described in subsection 2.0.2 (3); (“accord d’échange de renseignements”)

(5) Section 1 of the Act is amended by adding the following definition:

“licensee” means the holder of a licence under the *New Home Construction Licensing Act, 2017*; (“titulaire de permis”)

(6) Section 1 of the Act is amended by adding the following definition:

“officer” includes,

- (a) the chair and any vice-chair of the board of directors, the president and any vice-president, the secretary and assistant secretary, the treasurer and assistant treasurer and the general manager and assistant general manager of the Corporation or any other corporation,
- (b) a partner or general manager and assistant general manager of a partnership,
- (c) any other individual designated as an officer by by-law or resolution of an organization,
- (d) any other individual who performs functions normally performed by an individual occupying an office described in clause (a), (b) or (c), and
- (e) any other prescribed individual; (“dirigeant”)

(7) Section 1 of the Act is amended by adding the following definition:

“owner-builder” means, subject to the prescribed requirements or restrictions, if any, an individual who constructs or manages the construction of a residential dwelling for the individual’s personal use and occupation and who meets the prescribed requirements, if any; (“constructeur-propriétaire”)

(8) The definition of “Plan” in section 1 of the Act is repealed and the following substituted:

“Plan” means the Ontario New Home Warranties and Protection Plan continued under subsection 11 (1); (“Régime”)

(9) Section 1 of the Act is amended by adding the following definition:

“regulatory authority” has the same meaning as in the *New Home Construction Licensing Act, 2017*; (“organisme de réglementation”)

(10) The definition of “Tribunal” in section 1 of the Act is repealed and the following substituted:

“tribunal” means, in respect of a prescribed matter, the adjudicative body determined in accordance with the regulations in respect of that matter; (“tribunal”)

(11) Section 1 of the Act is amended by adding the following definition:

“vacant land condominium corporation” means a condominium corporation described in subsection 155 (2) of the *Condominium Act, 1998*; (“association condominiale de terrain nu”)

(12) Section 1 of the Act is amended by adding the following subsection:

Interested person

(2) For the purposes of this Act, a person shall be deemed to be an interested person in respect of another person if the person is associated with the other person or if, in the opinion of the Registrar,

- (a) the person has or may have a beneficial interest in the other person’s activities;
- (b) the person exercises or may exercise control either directly or indirectly over the other person; or
- (c) the person has provided or may have provided financing either directly or indirectly for the other person’s activities.

(13) Section 1 of the Act is amended by adding the following subsection:

Associated persons

(3) For the purposes of this Act, one person is associated with another person in any of the following circumstances:

- 1. One person is a corporation of which the other person is an officer or director.
- 2. One person is a partnership of which the other person is a partner.
- 3. Both persons are partners of the same partnership.
- 4. One person is a corporation that is controlled directly or indirectly by the other person.
- 5. Both persons are corporations and one corporation is controlled directly or indirectly by the same person who controls directly or indirectly the other corporation.
- 6. Both persons are members of the same voting trust relating to shares of a corporation.
- 7. Both persons are associated within the meaning of paragraphs 1 to 6 with the same person.

(14) Section 1 of the Act is amended by adding the following subsection:

Tribunal

(4) For the purposes of the definition of “tribunal” in subsection (1), the adjudicative bodies that may be prescribed include,

- (a) a tribunal established under an Act of the Legislature of Ontario;
- (b) an arbitrator; and
- (c) a court.

2 The Act is amended by adding the following section:

Crown bound

1.1 Subject to the prescribed restrictions, if any, this Act binds the Crown.

3 The Act is amended by adding the following section:

Act prevails

1.2 This Act applies despite any agreement to the contrary.

4(1) Subsection 2 (1) of the Act is amended by striking out “a non-profit corporation incorporated without share capital under the *Corporations Act*” and substituting “a not-for-profit corporation without share capital incorporated under the laws of Ontario”.

(2) Subsection 2 (2) of the Act is amended by adding the following clauses:

- (c.1) promoting the resolution of claims as soon as reasonably possible in accordance with this Act and the regulations;
- (c.2) promoting the construction in Ontario of properly built homes for residential purposes;

(3) Clause 2 (2) (e) of the Act is amended by striking out “the repeal of this Act” in the portion before subclause (i) and substituting “the repeal of all or any part of this Act”.

(4) Section 2 of the Act is amended by adding the following subsections:

Revocation of designation

(5) The Lieutenant Governor in Council may, by regulation, revoke the designation of the Corporation if the Lieutenant Governor in Council considers it advisable to do so in the public interest.

Revocation for non-compliance

- (6) The Lieutenant Governor in Council may revoke the designation of the Corporation if,
- (a) the Corporation has failed to comply with this Act, the regulations, the administrative agreement, an information sharing agreement or other applicable law;
 - (b) the Minister has allowed the Corporation the opportunity of remedying its default within a specified time period that the Minister considers reasonable in the circumstances; and
 - (c) the Corporation has not remedied its default to the Minister's satisfaction within the specified time period mentioned in clause (b) and the Minister has so advised the Lieutenant Governor in Council.

Same, no restriction on subs. (5)

- (7) Nothing in subsection (6) restricts the ability of the Lieutenant Governor in Council to act under subsection (5).

Revocation on request

- (8) The Lieutenant Governor in Council may revoke the designation of the Corporation on the terms that the Lieutenant Governor in Council considers advisable in the public interest if the Corporation requests the revocation.

Non-application of *Statutory Powers Procedure Act*

- (9) The *Statutory Powers Procedure Act* does not apply to the exercise by the Lieutenant Governor in Council of a right under this section to revoke the designation of the Corporation.

Transition

- (10) If the Lieutenant Governor in Council revokes the designation of the Corporation under this section, the Lieutenant Governor in Council may, by regulation, provide for any transitional matter necessary for the effective implementation of the revocation, including,

- (a) the transfer, without compensation, of any property, including assets, liabilities, rights, obligations, records, databases, bank accounts and money, that the Corporation holds in respect of carrying out its activities; and
- (b) the assignment, without compensation, of any contracts that the Corporation has entered into before the revocation.

No Crown liability

- (11) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of the revocation of the designation of the Corporation or any regulation made under subsection (10).

No proceeding

- (12) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (11).

5 The Act is amended by adding the following section:**Administrative agreement**

- 2.0.1** (1) The Corporation shall enter into an administrative agreement with the Minister on or before the day specified by the Minister.

Contents

- (2) The administrative agreement shall include, at a minimum, terms related to the following matters:
- 1. The governance of the Corporation.
 - 2. All matters that the Minister considers necessary for the Corporation to carry out the administration of this Act and the regulations.
 - 3. The maintenance by the Corporation of adequate insurance against liability arising out of the carrying out of its powers and duties under this Act or the regulations.

Compliance with operating principles

- (3) The administrative agreement, in addition to the minimum terms required under subsection (2), shall require the Corporation to comply with the principles of,
- (a) maintaining a fair, safe and informed marketplace; and
 - (b) promoting the protection of the public interest, and consumers in particular.

Amendment by Minister

(4) Subject to subsection (5), the Minister may unilaterally amend the administrative agreement, after giving the Corporation the notice that the Minister considers reasonable in the circumstances.

Conditions precedent

(5) The Minister may amend the administrative agreement under subsection (4) only if the Minister is of the opinion that it is advisable to do so in the public interest because at least one of the following conditions is satisfied:

1. Amending the administrative agreement is necessary to prevent serious harm to the interests of the public, purchasers of homes or owners.
2. An event of force majeure has occurred.
3. The Corporation is facing a risk of insolvency.
4. The number of members of the board is insufficient for a quorum.

6 The Act is amended by adding the following section:

Information sharing

2.0.2 (1) The Corporation shall share the prescribed information with the Minister, the regulatory authority and prescribed persons in accordance with the regulations and in the manner and within the time prescribed.

Personal information

(2) For greater certainty, the prescribed information may include personal information as defined in subsection 2 (1) of the *Freedom of Information and Protection of Privacy Act*.

Agreements

(3) For the purpose of complying with subsection (1), the Corporation shall, in accordance with the regulations, enter into agreements with the Minister, the regulatory authority and prescribed persons in the manner and within the time prescribed.

Content of agreements

(4) The information sharing agreements mentioned in subsection (3) shall include, at a minimum, terms relating to the prescribed matters, which may include,

- (a) the enrolment, or qualification for enrolment, of homes in the Plan;
- (b) claims for compensation from the guarantee fund;
- (c) the result of the claims mentioned in clause (b); and
- (d) all other matters that are prescribed.

Sharing of enforcement information

(5) The information sharing agreements may also require the sharing of enforcement information regarding actions that the Registrar is taking or is proposing to take in relation to matters set out in subsection (4).

7 The Act is amended by adding the following section:

Compliance by Corporation

2.0.3 In carrying out its powers and duties under this Act or the regulations, the Corporation shall comply with this Act, the regulations, the administrative agreement, the information sharing agreements and other applicable law.

8 Subsection 2.1 (1) of the Act is repealed and the following substituted:

Conflict

- (1) In the event of conflict, this Act and the regulations prevail over,
 - (a) the administrative agreement and the information sharing agreements;
 - (b) the *Corporations Information Act* and the regulations made under it; and
 - (c) the constating documents, the corporate by-laws and the resolutions of the Corporation.

9 The French version of subsection 2.6 (4) of the Act is amended by adding “judiciaire” after “tribunal” in the portion before clause (a).

10 Sections 2.8 to 2.10 of the Act are repealed and the following substituted:

No personal liability, employee of the Crown

2.8 (1) No action or other proceeding shall be instituted against a current or former employee of the Crown for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order; or
- (b) any neglect or default in the exercise or performance in good faith of such a duty or power.

Tort by employee of the Crown

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject.

No Crown liability

(3) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister's order.

Same

(4) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (3).

Application

(5) Without limiting the generality of subsection (4), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgement, order or award made by a court, tribunal or arbitrator outside of Canada.

Revocation

(6) Subsections (1) to (5) apply, with necessary modifications, in respect of a direct or indirect result of the revocation of a designation under section 2 or any regulation made under subsection 2 (10).

Indemnification

2.9 The Corporation shall indemnify the Crown, in accordance with the administrative agreement, in respect of damages and costs incurred by the Crown for any act or omission of the Corporation or its members, officers, directors, employees or agents in the exercise or performance or intended exercise or performance of their duties and powers under this Act, the regulations, a Minister's order, the administrative agreement or the information sharing agreements, or for any act or omission otherwise connected to this Act, the regulations, a Minister's order, the administrative agreement or the information sharing agreements.

No personal liability

2.10 (1) No action or other proceeding shall be instituted against a person mentioned in subsection (2), or who was formerly such a person, for any act done in good faith in the exercise or performance or intended exercise or performance of any of the person's duties or powers under this Act, the regulations or a Minister's order, or for any neglect or default in the exercise or performance in good faith of such a duty or power.

Application

(2) Subsection (1) applies to the following persons:

1. The Registrar.
2. A Deputy Registrar.
3. An inspector.
4. A director or officer of the Corporation.
5. A person whom the Corporation employs or whose services the Corporation retains.
6. An agent of the Corporation.
7. A member of a committee or an advisory body of the Corporation.
8. The ombudsperson mentioned in section 5.7.
9. A person whom the ombudsperson employs or whose services the ombudsperson retains.

Liability of Corporation

(3) Subsection (1) does not relieve the Corporation of liability to which it would otherwise be subject in respect of the acts or omissions of a person mentioned in subsection (2).

11 Subsection 5.1 (2) of the Act is amended by adding the following paragraph:

5. The Corporation has failed to enter into an administrative agreement in accordance with section 2.0.1.

12 Subsection 5.4 (1) of the Act is amended by striking out “Corporations Act” at the end and substituting “Not-for-Profit Corporations Act, 2010”.

13 The Act is amended by adding the following section:

REGULATORY AUTHORITY — INFORMATION

Information for regulatory authority

5.5 (1) The Registrar may require vendors, builders and other prescribed persons to disclose to the Registrar, in accordance with the regulations,

- (a) information that is related to the administration of this Act;
- (b) the information that the Registrar determines is necessary to assist the regulatory authority in carrying out its duties under section 33 of the *New Home Construction Licensing Act, 2017*; or
- (c) any information that is prescribed.

Information provision

(2) The Corporation shall provide the information that is disclosed to the Registrar under subsection (1) to such persons as may be required under the information sharing agreements or the regulations and shall do so in such manner and within such time as may be required under the information sharing agreements or the regulations.

14 The Act is amended by adding the following section:

Information to provide to regulatory authority

5.6 Subject to the prescribed requirements or restrictions, if any, the Registrar shall provide the following information to the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017*:

1. Information about the enrolment, or qualification for enrolment, of homes in the Plan.
2. Information about claims that the Registrar has received.
3. All other information, if any, that is prescribed.

15 The Act is amended by adding the following section:

OMBUDSPERSON

Ombudsperson

5.7 The Corporation shall make available, in accordance with the administrative agreement and the regulations, if any, an ombudsperson to carry out the following duties:

1. To inquire into and to respond to the administration of this Act by the Corporation.
2. To make recommendations in respect of the administration of this Act by the Corporation.
3. To carry out the other duties, if any, that are prescribed.

16 (1) Clause 7 (1) (a) of the Act is amended by adding “or the financial position of an interested person in respect of the applicant” after “financial position”.

(2) Clause 7 (1) (b) of the Act is amended by adding “or of an interested person in respect of the applicant” before “affords”.

(2.1) Subsection 7 (1) of the Act is amended by adding the following clause:

(b.1) the applicant or an employee or agent of the applicant makes a false statement or provides a false statement in an application for registration or for renewal of a registration;

(3) Clause 7 (1) (c) of the Act is repealed and the following substituted:

- (c) the applicant is a corporation and,
 - (i) having regard to its financial position or the financial position of an interested person in respect of the corporation, the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant’s undertakings,
 - (ii) having regard to the financial position of its officers or directors or an interested person in respect of its officers or directors, the applicant cannot reasonably be expected to be financially responsible in the conduct of the applicant’s undertakings,

- (iii) the past or present conduct of its officers or directors or of an interested person in respect of its officers or directors or of an interested person in respect of the corporation affords reasonable grounds for belief that its undertaking will not be carried on in accordance with the law and with integrity and honesty, or
- (iv) an officer or director of the corporation makes a false statement or provides a false statement in an application for registration or for a renewal of a registration; or

(4) Subsection 7 (2) of the Act is amended by striking out “Tribunal” and substituting “tribunal”.

17 Section 9 of the Act is amended by striking out “Tribunal” wherever it appears and substituting in each case “tribunal”.

18 The Act is amended by adding the following sections:

PROTECTIONS

Requirements for vendors of homes

10.1 A vendor shall not sell or offer to sell a home unless the vendor,

- (a) is licensed as a vendor under the *New Home Construction Licensing Act, 2017*;
- (b) has provided the Registrar with the particulars that the Registrar requires and in the manner that the Registrar requires;
- (c) has paid the Registrar the fee that the Registrar requires;
- (d) has complied with the other requirements, if any, that are prescribed;
- (e) has received confirmation from the Registrar that the home,
 - (i) qualifies for enrolment in the Plan, if construction of the home has not commenced, or
 - (ii) has been enrolled in the Plan, if construction of the home has commenced; and
- (f) has provided the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* with a copy of the confirmation described in clause (e).

Requirements for builders of homes

10.2 (1) Subject to the prescribed requirements or restrictions, if any, a builder shall not offer to enter into a contract with an owner of land for the construction of a home on the land unless the builder,

- (a) is licensed as a builder under the *New Home Construction Licensing Act, 2017*; and
- (b) has complied with the other requirements, if any, that are prescribed.

Offering to commence construction

(2) A builder shall not offer to commence constructing a home unless the builder has complied with clauses (1) (a) and (b).

Contract for construction

(3) Subject to the prescribed requirements or restrictions, if any, a builder shall not enter into a contract with an owner of land for the construction of a home on the land unless the builder,

- (a) is licensed as a builder under the *New Home Construction Licensing Act, 2017*;
- (b) has notified the Registrar of the intention to commence construction;
- (c) has provided the Registrar with the particulars that the Registrar requires and in the manner that the Registrar requires;
- (d) has paid the Registrar the fee that the Registrar requires;
- (e) has complied with the other requirements, if any, that are prescribed;
- (f) has received confirmation from the Registrar that the home has been enrolled in the Plan; and
- (g) has provided the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* with a copy of the confirmation described in clause (f).

Commencing construction

(4) A builder shall not commence constructing a home unless the builder has complied with clauses (3) (a) to (g).

Enrolment of homes in Plan

10.3 (1) A vendor or a builder of a home that has not been constructed may apply to the Registrar for a determination as to whether the home qualifies for enrolment in the Plan.

Same

(2) ~~A builder of a home may apply~~ A builder of a home or a prescribed person may apply to the Registrar to enrol the home in the Plan.

Application

(3) An application described in subsection (1) or (2) shall be in the form and manner that the Registrar requires and shall include the information that the Registrar reasonably requests with respect to the home and the other information, if any, that is prescribed.

Determination of Registrar

(4) Upon receiving an application described in subsection (1) or (2), the Registrar shall, subject to section 10.6, determine whether to grant it and may consider the past and present financial position or conduct of the applicant, an interested person in respect of the applicant or any other prescribed person.

Prescribed conditions

(4.1) Any conditions prescribed under clause 23 (1) (b.4) must be satisfied.

(a) before the Registrar makes a determination that a home qualifies for enrolment in the Plan;

(b) in order for a home to continue to qualify for enrolment in the Plan; and

(c) before the Registrar enrolls a home in the Plan.

Conditions

(5) Subject to section 10.6, the Registrar may impose conditions that must be satisfied,

- (a) before the Registrar makes a determination that a home qualifies for enrolment in the Plan;
- (b) in order for a home to continue to qualify for enrolment in the Plan; or
- (c) before the Registrar enrolls a home in the Plan.

Registrar's confirmation

(6) When the Registrar grants an application described in subsection (1) and all conditions prescribed under clause 23 (1) (b.4) and imposed under clause (5) (a) have been met, the Registrar shall provide the confirmation that the home qualifies for enrolment in the Plan to the applicant under the application and any other prescribed person in the prescribed manner.

Same, enrolment

(7) When the Registrar grants an application described in subsection (2) and all conditions prescribed under clause 23 (1) (b.4) and imposed under clauses (5) (b) and (c) have been met, the Registrar shall provide the confirmation that the home has been enrolled in the Plan to the builder and any other prescribed person in the prescribed manner.

Licensing conditions

(8) At any time after the Registrar provides a confirmation described in subsection (6) or (7) to a licensee, the Registrar may notify the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* of conditions that the Registrar requests be attached to the licence of the licensee or, subject to subsection (9), that it requires be attached to the licence.

Mandatory licensing conditions

(9) In the prescribed circumstances, the Registrar may require the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* to attach conditions to the licence of the licensee if the Registrar determines it is necessary to do so.

Suspension or revocation of qualification of enrolment

10.4 Subject to section 10.6, at any time after the Registrar has made a determination that a home qualifies for enrolment in the Plan and before the Registrar enrolls the home in the Plan, the Registrar may suspend or revoke the determination.

Cancellation of enrolment

10.5 Subject to section 10.6, at any time after the Registrar enrolls a home in the Plan, the Registrar may cancel the enrolment if the Registrar determines that the home ceases to meet the definition of a home in subsection 1 (1).

Notice of proposal

10.6 (1) The Registrar shall notify an applicant or a prescribed person if the Registrar proposes to,

- (a) refuse to grant an application described in subsection 10.3 (1) or (2);
- (b) impose conditions under subsection 10.3 (5);

- (c) suspend or revoke a determination that the home qualifies for enrolment in the Plan; or
- (d) cancel the enrolment of a home in the Plan.

Content of notice

(2) The notice shall set out the reasons for the Registrar's proposed action and shall state that the applicant or person is entitled to a hearing by the tribunal if the applicant or person mails or delivers, within 15 days after service of the notice, a written request for a hearing to the Registrar and to the tribunal.

Service of notice

(3) The notice shall be served on the applicant or person in accordance with section 20, but this section prevails over section 20 to the extent of a conflict.

Service of hearing request

(4) A request for a hearing under subsection (2) is sufficiently served if it is sent to the Registrar and to the tribunal by personal delivery, by registered mail or in accordance with the rules of the tribunal.

Same

(5) If service is made by registered mail, it shall be deemed to have been made on the third day after the day of mailing.

Other methods

(6) Despite subsection (4), the tribunal may order any other method of service.

If no request for hearing

(7) If the applicant or person does not request a hearing in accordance with subsection (2), the Registrar may carry out the proposed action.

Hearing

(8) If the applicant or person requests a hearing in accordance with subsection (2), the tribunal shall hold the hearing and may, by order,

- (a) direct the Registrar to carry out the Registrar's proposed action; or
- (b) substitute the conditions that it sees fit instead of the conditions described in clause (1) (b) or substitute its opinion for that of the Registrar, as applicable.

Powers of tribunal

(9) In addition to its powers under subsection (8), the tribunal may attach conditions to its order or to a determination that a home qualifies for enrolment in the Plan or to the enrolment of a home in the Plan.

Parties

(10) The Registrar, the applicant or person and the other persons that the tribunal specifies are parties to the proceedings under this section.

Immediate effect

(11) Even if the applicant or person appeals an order of the tribunal, the order takes effect immediately, unless the order provides otherwise, but the Divisional Court may grant a stay until the disposition of the appeal.

Non-application, residential condominium conversion projects

10.7 Sections 10.1 to 10.6 do not apply with respect to residential condominium conversion projects.

19 The heading before section 11 and subsection 11 (1) of the Act are repealed and the following substituted:

ONTARIO NEW HOME WARRANTIES AND PROTECTION PLAN

Ontario New Home Warranties and Protection Plan

(1) The Ontario New Home Warranties Plan is continued under the name Ontario New Home Warranties and Protection Plan in English and Régime ontarien de garanties et de protection pour les logements neufs in French and is comprised of the warranties, protections, guarantee fund and compensation provided by this Act.

20 (1) Section 14 of the Act is amended by adding the following subsections:

Timelines and procedures for claims

(5.0.1) The timelines and procedures associated with claims for compensation from the guarantee fund may be prescribed by regulation made by the Lieutenant Governor in Council.

Conflict

(5.0.2) In the event of a conflict, a regulation made by the Lieutenant Governor in Council for the purposes of subsection (5.0.1) prevails over a by-law of the Corporation passed under section 23.

(2) Section 14 of the Act is amended by adding the following subsection:**Delayed occupancy or closing**

(5.0.3) Subject to the regulations, a person who has entered into an agreement to purchase a home from a vendor is entitled to receive payment out of the guarantee fund for a delay in,

- (a) occupancy of the new home, as determined by the regulations; or
- (b) closing the agreement of purchase and sale, as determined by the regulations.

(3) Subsections 14 (6) and (7) of the Act are repealed and the following substituted:**Response of Corporation**

(6) The Corporation shall investigate the concern giving rise to a claim to verify that it relates to an entitlement to receive compensation out of the guarantee fund under subsection (1), (2), (3) or (4) and, if it does, shall determine whether the claimant is entitled to receive such compensation and how it will deal with the claim.

Inquiries, etc.

(7) In investigating a concern under subsection (6), the Corporation may make any inquiries, conduct any inspections or apply any technical and other expertise that it considers appropriate.

Expert help

(8) An individual making an inquiry or conducting an inspection under subsection (7) on behalf of the Corporation may be accompanied by one or more persons with special expert or professional knowledge, and other persons as necessary, as the individual considers advisable.

Conduct of inquiries, etc.

(9) The Corporation shall ensure that any actions it takes under subsection (7) are done in accordance with the regulations, if any.

Process of dealing with claims

(10) In dealing with a claim, the Corporation may use a range of processes for inquiring into the claim and for engaging with the claimant and other affected parties.

Other recovery

(11) In determining the amount for which a claimant is entitled to receive payment out of the guarantee fund, the Corporation shall, subject to the prescribed requirements or restrictions, if any, take into consideration any benefit, compensation or indemnity payable or the value of work and materials furnished to the claimant from any source.

Performance

(12) The Corporation may perform or arrange for the performance of any work in lieu of or in mitigation of damages that are claimed.

Notice of decision

(13) When the Corporation makes a decision in respect of a claim, it shall serve notice of the decision, together with reasons for the decision, on the claimant and the other persons, if any, that are prescribed.

Appeal to tribunal

(14) A notice under subsection (13) shall state that the claimant is entitled to appeal the decision to the tribunal by providing notice to the tribunal, to the Corporation and to the other persons, if any, that are prescribed, in the form and within the time that is prescribed.

Copy of notice of appeal

(15) The Corporation shall provide a copy of any notice of appeal it receives under subsection (14) to the relevant vendor or builder and to any other persons that may be prescribed.

Dispute resolution

(16) The right to a hearing before the tribunal does not preclude the Corporation from making available one or more voluntary dispute resolution processes for a claim.

Tribunal hearing

(17) If the tribunal receives a notice of appeal under subsection (14), it shall appoint a time for and hold a hearing.

Parties

(18) The Corporation and the claimant are the parties to the proceedings before the tribunal under this section, unless the regulations provide otherwise.

Order

(19) After holding a hearing, the tribunal may,

- (a) by order, direct the Corporation to take the action that the tribunal considers the Corporation ought to take in accordance with this Act and the regulations; and
- (b) for the purposes of the order, substitute its opinion for that of the Corporation.

Other remedies unaffected

(20) Unless the regulations specifically provide otherwise, nothing in this Act restricts the remedies otherwise available to an owner or any other prescribed person for the failure of another person to perform a duty imposed by this Act.

21 (1) Clause 15 (a) of the Act is amended by striking out “of the corporation” and substituting “in the corporation”.

(2) Clause 15 (b) of the Act is repealed and the following substituted:

- (b) subject to clauses (c) and (d), if a condominium unit that is a residential dwelling is included in a condominium property, the warranties on the common elements in the condominium corporation take effect on the date of the registration of the condominium declaration and description in accordance with the *Condominium Act, 1998*;

(3) Clause 15 (c) of the Act is amended by striking out “of a common elements condominium corporation” and substituting “in a common elements condominium corporation”.

(4) Clause 15 (d) of the Act is repealed and the following substituted:

- (d) the warranties on common elements in a phased condominium corporation that are added to the corporation after the registration of the condominium declaration and description, in accordance with the *Condominium Act, 1998*, take effect on the date of the registration of the amendments to the condominium declaration and description that created them;

(5) Clause 15 (e) of the Act is amended by striking out “of the amalgamating corporations” at the end and substituting “in the amalgamating corporations”.

~~**22 Section 15.1 of the Act is amended by adding “or is licensed under the *New Home Construction Licensing Act, 2017*” after “this Act”.**~~

22 Section 15.1 of the Act is repealed and the following substituted:

Liability of vendor

15.1 For the purposes of sections 13 and 14, a person shall be deemed to be a vendor of a home if the following conditions apply, even if another person sells the home to an owner or completes a transaction to sell the home to an owner:

1. The person at any time has registered as a vendor under this Act with respect to the home or at any time has been licensed as a vendor under the *New Home Construction Licensing Act, 2017* with respect to the home.
2. The Registrar has confirmed that the home qualifies for enrolment in the plan or that the home has been enrolled in the plan, or the builder of the home has complied with section 12, as it read before it was repealed, as the case may be.
3. The builder of the home has substantially completed the construction of the home.

23 Section 16 of the Act is amended by striking out “Tribunal” wherever it appears and substituting in each case “tribunal”.

24 (1) Clause 17.2 (1) (a) of the Act is amended by striking out “is registered as a builder under this Act” and substituting “holds a licence as a builder under the *New Home Construction Licensing Act, 2017*”.

(2) Clause 17.2 (1) (b) of the Act is amended by striking out “is registered as a vendor under this Act” and substituting “holds a licence as a vendor under the *New Home Construction Licensing Act, 2017*”.

25 (1) Clause 17.4 (2) (a) of the Act is amended by striking out “have been enrolled in the Plan” at the end and substituting “have qualified for enrolment in the Plan or have been enrolled in the Plan, as the case may be”.

(2) Clause 17.4 (2) (b) of the Act is repealed and the following substituted:

- (b) the fact that the builder of the project holds a licence as a builder under the *New Home Construction Licensing Act, 2017* in respect of the project;

(3) Clause 17.4 (2) (c) of the Act is repealed and the following substituted:

- (c) the fact that the vendor of the project holds a licence as a vendor under the *New Home Construction Licensing Act, 2017* in respect of the project;

(4) Section 17.4 of the Act is amended by adding the following subsections:

Licensing conditions

(2.1) At any time after the Registrar provides a confirmation described in subsection (1) to a licensee, the Registrar may notify the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* of conditions that the Registrar requests be attached to the licence of the licensee or, subject to subsection (2.2), that it requires be attached to the licence.

Mandatory licensing conditions

(2.2) In the prescribed circumstances, the Registrar may require the registrar appointed under section 35 of the *New Home Construction Licensing Act, 2017* to attach conditions to the licence of the licensee if the Registrar determines it is necessary to do so.

25.1 The Act is amended by adding the following section:

OWNER-BUILDERS

Application of this Act

17.6 The prescribed provisions of this Act apply to an owner-builder in the prescribed circumstances, if any, subject to the conditions, if any, that are prescribed.

26 (1) Subsection 18 (1) of the Act is amended by striking out “for the purposes of this Act” at the end and substituting “to conduct inspections for the purposes of this Act and as may be required by the regulations”.

(2) Subsection 18 (3) of the Act is amended by adding “Subject to the regulations” at the beginning of the portion before clause (a).

(3) Section 18 of the Act is amended by adding the following subsection:

Reports to Minister

(3.1) The Corporation shall report to the Minister respecting inspections under this Act in accordance with the regulations.

27 (1) The Act is amended by adding the following section:

Non-application, *Corporations Act*

21.1 Subsections 129 (2) and (3) of the *Corporations Act* do not apply to the Corporation with respect to corporate by-laws that are necessary to implement a Minister’s order made under this Act, whether the order was made before or after this section comes into force.

(2) Section 21.1 of the Act, as enacted by subsection (1), is repealed and the following substituted:

Non-application, *Not-for-Profit Corporations Act, 2010*

21.1 Subsections 17 (2) to (5) of the *Not-for-Profit Corporations Act, 2010* do not apply to the Corporation with respect to corporate by-laws that are necessary to implement a Minister’s order made under this Act, whether the order was made before or after this section comes into force.

27.1 Clause 22 (1) (b) of the Act is amended by striking out “section 6 or 12” and substituting “section 6, 10.1, 10.2 or 12”.

28 (1) Section 22.1 of the Act is repealed and the following substituted:

Lieutenant Governor in Council regulations

22.1 The Lieutenant Governor in Council may make regulations,

- (a) prescribing individuals for the purposes of the definition of “officer” in subsection 1 (1);
- (b) prescribing requirements or restrictions for the purposes of the definition of “owner-builder” in subsection 1 (1);
- (c) prescribing matters and governing the determination of adjudicative bodies for the purposes of the definition of “tribunal” in subsection 1 (1);
- (d) prescribing restrictions for the purposes of section 1.1;
- (e) respecting anything that is to be prescribed or done by regulation under section 2.0.2;
- (f) governing the expenses and expenditures to which section 4 applies;
- (g) respecting anything that is to be prescribed or done by regulation under sections 5.5 and 5.6;
- (h) respecting the ombudsperson for the purposes of section 5.7, including governing the duties of the ombudsperson and prescribing additional duties;

- (i) respecting anything that is to be prescribed or done by regulation under sections 10.1 to 10.6, other than matters in respect of which the Corporation may make by-laws under clauses 23 (1) (b.1), ~~(b.2) and (b.3)~~ (b.2), (b.3) and (b.4);
- (i.1) extending the time of expiration of a warranty provided for under subsection 13 (1) in respect of an item that remains unfinished after the date specified in the certificate under subsection 13 (3);
- (j) governing the evidence described in subsection 14 (5.1) and any matter relating to providing it;
- (j.1) governing the timelines and procedures associated with claims for compensation from the guarantee fund under subsection 14 (5.0.1), including any steps to be taken by the claimant, the registrant under this Act, the licensee under the *New Home Construction Licensing Act, 2017* or the Corporation before a payment out of the guarantee fund is made;
- (k) respecting anything that is to be prescribed or done by regulation under subsections 14 (6) to (20);
- (l) respecting procedures to be followed for the purposes of subsections 14 (14) to (19) where the tribunal is an arbitrator, including,
 - (i) providing for modifications to the procedures set out in subsections 14 (14) to (19) and the related regulations,
 - (ii) providing that the *Arbitration Act, 1991* applies with respect to the procedures, and providing modifications to that Act for this purpose,
 - (iii) respecting the selection of an arbitrator,
 - (iv) deeming there to be an arbitration agreement between the prescribed parties, and
 - (v) deeming the arbitration agreement to include specified terms;
- (m) prescribing the manner of determining the date mentioned in subsection 17.1 (2);
- (n) prescribing the anniversary mentioned in subsection 17.1 (2);
- (o) prescribing circumstances for the purposes of subsection 17.4 (2.2);
- (p) prescribing requirements for the purposes of subsection 17.5 (2);
- (p.1) respecting anything that is to be prescribed or done by regulation under section 17.6;
- (q) governing inspections, including requiring the inspection of homes in the prescribed circumstances and in the prescribed manner;
- (r) governing the Corporation's reporting to the Minister respecting inspections;
- (s) governing the procedures for resolution of disputes between any of a claimant, the Corporation, a vendor, a builder and an owner-builder, including prescribing circumstances when a person is not entitled to refer a dispute to adjudication under Part II.1 of the *Construction Act*;
- (t) defining any word or expression used in this Act that is not expressly defined in this Act or in a by-law made under section 23;
- (u) exempting any person or entity or class of persons or entities from any provision of this Act or the regulations and attaching conditions to an exemption;
- (v) providing for further exemptions from or alterations to the application of the *Corporations Act* or the regulations made under it to the Corporation;
- (w) providing for any transitional matter necessary for the effective implementation of,
 - (i) a revocation by the Lieutenant Governor in Council of a designation under subsection 2 (5), or
 - (ii) the repeal of all or any part of this Act and its replacement in full or in part by another Act;
- (x) governing the right of recovery of the Corporation in respect of payments made out of the guarantee fund, costs incurred relating to a claim, administration fees, penalties and interest, and prescribing that such a regulation prevails over a by-law made by the Corporation;
- (y) prescribing the circumstances in which a person is required to indemnify the Corporation, and prescribing that such a regulation prevails over a by-law made by the Corporation;
- (z) prescribing the circumstances in which a person is required to reimburse the guarantee fund in respect of a payment out of the guarantee fund of a claim, or the value of services provided by the Corporation in respect of the claim, and the circumstances in which a person is required to pay administration fees, penalties and interest in respect of any payment or services rendered, prescribing rules respecting the time and manner for the reimbursement or the payment of such amounts, and prescribing that such a regulation prevails over a by-law made by the Corporation.

(2) Clause 22.1 (v) of the Act, as enacted by subsection (1), is amended by striking out “Corporations Act” and substituting “Not-for-Profit Corporations Act, 2010”.

29 (1) Subsection 23 (1) of the Act is amended by adding the following clauses:

- (b.1) subject to the approval of the Minister, prescribing requirements for vendors for the purposes of clause 10.1 (d);
- (b.2) subject to the approval of the Minister, prescribing requirements for builders for the purposes of clause 10.2 (1) (b);
- (b.3) subject to the approval of the Minister, prescribing requirements for builders for the purposes of clause 10.2 (3) (e);
- (b.4) subject to the approval of the Minister, prescribing conditions for the purposes of subsection 10.3 (4.1);

(2) Clause 23 (1) (g) of the Act is amended by adding “subject to a regulation described in clause ~~22.1 (s)~~ 22.1 (j.1) or (s)” at the beginning.

(2.1) Clause 23 (1) (j) of the Act is amended by striking out “subject to the approval of the Minister, specifying” at the beginning and substituting “subject to a regulation described in clause 22.1 (i.1) and to the approval of the Minister, specifying”.

(2.2) Subsection 23 (1) of the Act is amended by adding the following clause:

- (k.1) subject to the approval of the Minister, providing that, despite clause 13 (2) (b), a warranty under subsection 13 (1) applies to secondary damage or other damages, losses or expenses that relate in any way to the defect, such as relocation costs and costs associated with advancing a claim, and governing in what circumstances the warranty applies and to what extent;

(3) Clause 23 (1) (m.1) of the Act is amended by adding “subject to a regulation described in clause 22.1 (q)” at the beginning.

(4) Subsection 23 (1) of the Act is amended by adding the following clause:

- (m.4) subject to the approval of the Minister, governing agreements that a vendor enters into with a purchaser, including,
 - (i) deeming certain terms or conditions to be included in the agreements,
 - (ii) requiring the parties to each agree to include certain specified terms or conditions,
 - (iii) prohibiting the agreements from including certain terms or conditions specified in the regulations, and
 - (iv) specifying remedies for the purchaser resulting from non-compliance;

30 (1) Subject to subsection (2), the Act is repealed on a day to be named by proclamation of the Lieutenant Governor.

(2) A proclamation under subsection (1) may provide for the repeal of different provisions of the Act on different dates.

Strengthening Protection for Ontario Consumers Act, 2017

31 (1) Subsection 71 (1) of Schedule 2 to the *Strengthening Protection for Ontario Consumers Act, 2017* is amended by striking out “the day this section comes into force” at the end and substituting “the day this subsection comes into force”.

(2) Subsection 71 (2) of Schedule 2 to the Act is amended by striking out “the day this section comes into force” and substituting “the day this subsection comes into force”.

(3) Subsection 71 (3) of Schedule 2 to the Act is amended by striking out “this section comes into force” and substituting “this subsection comes into force”.

(4) Subsection 71 (4) of Schedule 2 to the Act is amended by striking out “the day this section comes into force” and substituting “the day this subsection comes into force”.

(5) Subsection 71 (5) of Schedule 2 to the Act is amended by striking out “the day this section comes into force” and substituting “the day this subsection comes into force”.

(6) Subsection 71 (6) of Schedule 2 to the Act is repealed and the following substituted:

Money

(6) Even if subsections 2 (2) and (3) and section 4 of the *Ontario New Home Warranties Plan Act* are repealed, those provisions continue to apply to the Corporation within the meaning of that Act.

(7) Subsection 71 (7) of Schedule 2 to the Act is repealed.

(8) Section 73 and subsection 80 (2) of Schedule 2 to the Act are repealed.

(9) Section 7 of Schedule 4 to the Act is repealed.

Commencement

32 (1) Subject to subsections (2) and (3), this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

(2) Section 12 and subsections 27 (2) and 28 (2) come into force on the later of the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent and the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force.

(3) Subsections 28 (1) and ~~29 (2) and (3)~~ 29 (2) to (3), section 30, subsections 31 (7) to (9) and this section come into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

SCHEDULE 6
RESOURCE RECOVERY AND CIRCULAR ECONOMY ACT, 2016

1 Subsections 25 (8), (9) and (10) of the *Resource Recovery and Circular Economy Act, 2016* are repealed and the following substituted:

Appointment of chair

(8) The Minister may appoint a chair from among the members of the board.

If no appointment

(9) If the Minister does not make an appointment under subsection (8), the board shall elect a chair from among the members of the board.

Replacement

(10) The Minister may replace a person who has been elected chair by the board with another member of the board appointed by the Minister.

Vice-chairs

(10.1) The board shall elect one or more vice chairs from among the members of the board.

2 Subsection 44 (2) of the Act is repealed.

3 The Act is amended by adding the following section:

Disclosure of compensation and other payments

53.1 (1) The Minister may, by order, require the Authority to make available to the public any information specified by the Minister relating to,

- (a) the compensation that the Authority pays to members of its board of directors, its officers and its employees; and
- (b) any other payments that the Authority makes or is required to make to the persons mentioned in clause (a).

Posting required

(2) The Authority shall post the information specified in the order on the Registry or make it public through such other as means as may be set out in the order.

Information for prior period

(3) An order made under subsection (1) may require that the Authority make information referred to in that subsection available to the public with respect to a period that began before the day this section came into force.

Effect of compliance

(4) If the Authority makes information available to the public in accordance with an order under subsection (1), or in the reasonable belief that the action is required by the order, no court, person or other entity shall find that the Authority,

- (a) has contravened any Act enacted or regulation made before or after this section came into force; or
- (b) is in breach of or has contravened any agreement that purports to restrict or prohibit that action, regardless of whether the agreement was made before or after this section came into force.

Definition

(5) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments.

Commencement

4 This Schedule comes into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

**SCHEDULE 7
RETIREMENT HOMES ACT, 2010**

1 Subsections 12 (9) and (10) of the *Retirement Homes Act, 2010* are repealed and the following substituted:

Representation, etc., elected directors

- (9) The Minister may, by order, establish rules regarding who can serve as directors elected to the board, including,
- (a) that no more than a fixed percentage of members of the board shall be drawn from among the persons or classes of persons specified in the order;
 - (b) the criteria for their nomination;
 - (c) the process for their election;
 - (d) the length of their term; and
 - (e) whether they can be re-elected.

Order prevails

- (10) An order made under subsection (9) prevails over a by-law made under subsection 14 (2) in the case of conflict.

2 Subsection 14 (4) of the Act is repealed and the following substituted:

Available to the public

- (4) The Authority shall make the by-laws available for public inspection within the time specified in the memorandum of understanding or, if no time is specified in the memorandum of understanding, within 30 days after they are made by the board.

3 Section 15 of the Act is amended by adding the following subsection:

Conflict, Minister's order

- (2) In the event of a conflict, a Minister's order made under this Act prevails over the memorandum of understanding and the Authority's by-laws and resolutions.

4 Section 16 of the Act is amended by striking out "and" at the end of clause (d) and by adding the following clause:

- (d.1) to suggest to the Minister amendments to Ontario legislation that it considers would further the purposes of this Act or would assist the Authority in administering the Act and the regulations; and

5 (1) Subsection 18 (1) of the Act is amended by striking out "and" at the end of clause (b), by adding "and" at the end of clause (c), and by adding the following clause,

- (d) set out the financial terms of the administration of this Act.

(2) Subsection 18 (2) of the Act is repealed and the following substituted:

Conflict

- (2) In the event of conflict between any provision of this Act or the regulations and any provision of the memorandum of understanding, by-laws and resolutions, the provision of this Act or the regulations prevails.

6 Subsection 19 (1) of the Act is repealed and the following substituted:

Minister's policy directions

- (1) If the Minister considers it in the public interest to do so, the Minister may issue policy directions to the Authority relating to its administration of this Act and the regulations after giving the Authority the notice that the Minister considers reasonable in the circumstances.

Part of MOU

- (1.1) The policy directions issued under subsection (1) are deemed to form part of the memorandum of understanding.

7 (1) Subsection 19.2 (2) of the Act is amended by adding "and agents" after "employees".

(2) Section 19.2 of the Act is amended by adding the following subsections:

Report to Minister

- (3) The results of reviews under this section shall be reported to the Minister, within the time specified by the Minister.

Terms and conditions

- (4) The Minister may impose terms and conditions with respect to a review carried out under this section.

8 The Act is amended by adding the following sections:

Duty to advise the responsible Minister

19.3 (1) The Authority shall promptly inform and advise the Minister with respect to,

- (a) any information that could affect the Authority's ability to perform its duties under this Act and the regulations; and
- (b) any urgent or critical matter that is likely to require action by the Minister.

Same

(2) The Authority shall advise or report to the Minister, within the time period that the Minister specifies, on any matter that the Minister refers to it and that relates to this Act and the regulations.

Consultation by Minister

19.4 The Minister may consult with the Authority about proposed legislative or policy changes that may affect the Authority and its activities.

9 (1) Section 21 of the Act is repealed and the following substituted:

Fees, etc.

21 (1) The Authority may set and charge fees, costs or other charges in relation to anything that the Authority does in administering this Act and the regulations or anything that the Registrar does under this Act and the regulations, as long as the decisions to set and charge are made in accordance with processes and criteria that the Authority establishes and that the Minister approves.

Exception

(2) The Authority shall not set or charge any fees, costs or charges payable by a person for making a complaint described in subsection 83 (1) to the Registrar.

Setting fees, etc.

(3) In setting the fees, costs and charges described in subsection (1), the Authority may specify their amounts or the method for determining the amounts.

Collection

(4) The Authority may,

- (a) set the time and manner of payment of the fees, costs and charges charged by it under subsection (1); and
- (b) require the payment of interest and other penalties, including payment of collection costs, when fees, costs and charges charged under subsection (1) are unpaid or paid after the due date.

Publication

(5) The Authority,

- (a) shall publish the fees, costs and charges, the processes and criteria and anything set or required under subsection (4) on its website and in any other way described in the memorandum of understanding; and
- (b) may publish anything mentioned in clause (a) in any other format the Authority considers advisable.

Not public money

(6) For greater certainty, the money that the Authority collects in administering this Act and the regulations is not public money as defined in the *Financial Administration Act*, and the Authority may use the money to carry out its objects.

(2) Subsection 21 (6) of the Act, as enacted by subsection (1), is amended by adding "subject to section 32.2" at the end.

10 Section 22.1 of the Act is repealed and the following substituted:

Processes and procedures

22.1 The Authority shall follow the prescribed processes and procedures with respect to providing access to the public to records of the Authority and with respect to managing personal information contained in those records.

11 The Act is amended by adding the following section:

Compensation information

22.2 (1) The Minister may, by order, require the Authority to make available to the public, on its website and by any other means that the Authority determines, any information specified by the Minister relating to,

- (a) the compensation that the Authority pays to members of the board, its officers and its employees; and
- (b) any other payments that the Authority makes or is required to make to the persons mentioned in clause (a).

Information for prior period

(2) An order made under subsection (1) may require that the Authority make information referred to in that subsection available to the public with respect to a period that began before the day this section came into force, where the information relates to a member of its board, an officer or employee who was in office or employed on the day this section came into force.

Effect of compliance

(3) If the Authority makes information available to the public in accordance with an order under subsection (1), or in the reasonable belief that the action is required by the order, no court, person or other entity shall find that the Authority,

- (a) has contravened any Act enacted or regulation made before or after this section came into force; or
- (b) is in breach of or has contravened any agreement that purports to restrict or prohibit that action, regardless of whether the agreement is made before or after this section came into force.

Definition

(4) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments.

12 The Act is amended by adding the following section:**Orders**

22.3 (1) The Minister shall publish any orders the Minister makes under this Act on a website of the Government of Ontario.

Not regulations

(2) For greater certainty, Part III (Regulations) of the *Legislation Act, 2006* does not apply to orders made by the Minister under this Act.

13 (1) Subsection 30 (1) of the Act is repealed and the following substituted:**No Crown liability**

(1) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations or a Minister’s order.

Same

(1.1) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (1).

Application

(1.2) Without limiting the generality of subsection (1.1), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, including a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada.

(2) Subsection 30 (2) of the Act is repealed and the following substituted:**Indemnification of the Crown**

(2) The Authority shall indemnify the Crown, in accordance with the memorandum of understanding, in respect of damages and costs incurred by the Crown for any act or omission of the Authority or its officers, directors, inspectors, investigators, employees or agents,

- (a) in carrying out the administration of this Act, the regulations, a Minister’s order or the memorandum of understanding; or
- (b) in the execution or intended execution of its powers and duties under this Act, the regulations, a Minister’s order or the memorandum of understanding.

14 The Act is amended by adding the following section:**No personal liability, employee of the Crown**

30.1 (1) No action or other proceeding shall be instituted against an employee of the Crown or a former employee for any act done in good faith in the exercise or intended exercise or performance of any duty or power under this Act, the regulations or a Minister’s order or for any alleged neglect or default in the exercise or performance in good faith of such a duty or power.

Crown liability

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject.

15 (1) Subsection 31 (1) of the Act is repealed and the following substituted:

Authority's annual report

(1) The Authority shall give the Minister an annual report about its activities and financial affairs.

(2) Subsection 31 (3) of the Act is repealed and the following substituted:

Available to the public

(3) The Authority shall publish the report on its website and by any other method within the period and in the manner the Minister requires.

16 (1) Subsection 32 (1) of the Act is amended by striking out “may appoint” and substituting “may, by order, appoint”.

(2) Subsection 32 (2) of the Act is repealed and the following substituted:

Notice of appointment

(2) The Minister shall give the board the notice that the Minister considers reasonable in the circumstances before appointing the administrator, unless there are not enough directors on the board to form a quorum, in which case the Minister may appoint the administrator without notice.

(3) **Subsection 32 (9) of the Act is amended by striking out “the regulations or” and substituting “the regulations, a Minister’s order or”.**

17 The Act is amended by adding the following section:

Status of board during administrator’s tenure

32.1 (1) On the appointment of an administrator under subsection 32 (1), the members of the board of directors cease to hold office, unless the order provides otherwise.

Same

(2) During the term of the administrator’s appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise.

No personal liability

(3) No action or other proceeding shall be instituted against a member or former member of the board for any act, neglect or default done by the administrator or the Authority after the member’s removal under subsection (1) or while the member’s powers are suspended under subsection (2).

Crown liability

(4) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (3) of this section does not relieve the Crown of liability to which it would otherwise be subject.

Liability of designated administrative authority

(5) Subsection (3) does not relieve the Authority of liability to which it would otherwise be subject.

18 The Act is amended by adding the following section:

Commercial activity

32.2 The Authority shall not engage in commercial activity through an individual, corporation or other entity that is related to the Authority.

19 Section 38 of the Act is repealed and the following substituted:

Fees, etc.

38 An applicant for a licence or a licensee shall pay all fees, costs and other charges set by the Authority under section 21.

Commencement

20 (1) Subject to subsection (2), this Schedule comes into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

(2) Subsection 9 (2), section 12, subsection 13 (2) and section 18 come into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 8
SAFETY AND CONSUMER STATUTES ADMINISTRATION ACT, 1996

1 (1) The definition of “administrative authority” in section 2 of the *Safety and Consumer Statutes Administration Act, 1996* is amended by striking out “or Canada that operates in Ontario”.

(2) Section 2 of the Act is amended by adding the following subsection:

Transition

(2) Despite the definitions of “administrative authority” and “designated administrative authority” in subsection (1), where a corporation incorporated under the laws of Canada was a designated administrative authority immediately before the coming into force of subsection 1 (1) of Schedule 8 to the *Rebuilding Consumer Confidence Act, 2020*, and an extension period is provided for in its administrative agreement,

- (a) the corporation continues to be a designated administrative authority during that period;
- (b) if the corporation is continued under the laws of Ontario during that period, the corporation continues to be a designated administrative authority after the expiration of that period; and
- (c) if the corporation is not continued under the laws of Ontario during that period, its designation as a designated administrative authority is deemed to be revoked immediately upon the expiration of that period.

2 Section 3 of the Act is amended by adding the following subsection:

Same

(3.2) For greater certainty, the Lieutenant Governor in Council may under this section designate one administrative authority for the purpose of administering more than one designated statute or regulation.

3 Subsections 4 (2) and (3) of the Act are repealed and the following substituted:

Minimum contents

- (2) The administrative agreement shall include, at a minimum, terms related to,
- (a) the financial terms of the delegation, including payments to the Crown, licence fees, royalties and reimbursements for transfers of assets;
 - (b) the governance of the administrative authority;
 - (c) the maintenance by the administrative authority of adequate insurance against liability arising out of the administrative authority’s administration of the designated legislation that is delegated to it; and
 - (d) all other matters that the Minister considers necessary for the administrative authority to carry out the administration of the designated legislation that is delegated to it.

Compliance with operating principles

(3) The administrative agreement, in addition to the minimum terms required under subsection (2), shall require the administrative authority to comply with the principles of,

- (a) maintaining a fair, safe and informed marketplace; and
- (b) promoting the protection of the public interest.

Amendment by Minister

(4) Subject to section 13.7, the Minister may unilaterally amend the administrative agreement, after giving the administrative authority the notice that the Minister considers reasonable in the circumstances.

Transition

(5) Despite subsections (2) and (3), any administrative agreement that was in effect immediately before the coming into force of section 3 of Schedule 8 to the *Rebuilding Consumer Confidence Act, 2020* remains in force according to its terms until it is otherwise amended or revoked, but for greater certainty, subsection (4) applies to such an agreement.

4 Section 5 of the Act is repealed and the following substituted:

Conflict rules

5 The following rules apply respecting conflicts that may arise in applying this Act:

1. This Act and its regulations prevail over designated legislation, an administrative agreement and an administrative authority’s constating documents, by-laws and resolutions.
2. Designated legislation prevails over an administrative agreement and an administrative authority’s constating documents, by-laws and resolutions.

3. A Minister's order made under this Act prevails over an administrative agreement and an administrative authority's constating documents, by-laws and resolutions.
4. This Act prevails over the *Corporations Information Act*.

Minister's authority to appoint administrator

5.1 (1) Subject to section 13.7, the Minister may, by order, appoint an individual as an administrator of a designated administrative authority for the purposes of assuming control of it and responsibility for its activities.

Notice of appointment

(2) The Minister shall give the designated administrative authority's board of directors the notice that the Minister considers reasonable in the circumstances before appointing the administrator.

Immediate appointment

(3) Subsection (2) does not apply if there are not enough members on the board to form a quorum.

Term of appointment

(4) The appointment of the administrator is valid until the Minister makes an order terminating it.

Powers and duties of administrator

(5) Unless the order appointing the administrator provides otherwise, the administrator has the exclusive right to exercise all the powers and perform all the duties of the directors, officers and members of the designated administrative authority.

Same

(6) In the order appointing the administrator, the Minister may specify the administrator's powers and duties and the conditions governing them.

Right of access

(7) The administrator has the same rights as the board in respect of the designated administrative authority's documents, records and information.

Report to Minister

(8) The administrator shall report to the Minister as the Minister requires.

Minister's directions

(9) The Minister may issue directions to the administrator with regard to any matter within the administrator's jurisdiction, and the administrator shall carry them out.

No personal liability

- (10) No action or other proceeding shall be instituted against the administrator or a former administrator for,
- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations made under this Act, the designated legislation, a Minister's order or the appointment under subsection (1); or
 - (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a).

Crown liability

(11) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (10) of this section does not relieve the Crown of liability to which it would otherwise be subject.

Liability of designated administrative authority

(12) Subsection (10) does not relieve the designated administrative authority of liability to which it would otherwise be subject.

Status of board during administrator's tenure

5.2 (1) On the appointment of an administrator under section 5.1, the members of the board of directors of the designated administrative authority cease to hold office, unless the order provides otherwise.

Same

(2) During the term of the administrator's appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise.

No personal liability

(3) No action or other proceeding shall be instituted against a member or former member of the board of the designated administrative authority for any act, neglect or default done by the administrator or the administrative authority after the member's removal under subsection (1) or while the member's powers are suspended under subsection (2).

Crown liability

(4) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (3) of this section does not relieve the Crown of liability to which it would otherwise be subject.

Liability of designated administrative authority

(5) Subsection (3) does not relieve the designated administrative authority of liability to which it would otherwise be subject.

5 (1) Subsection 6 (1) of the Act is amended by adding “or restrict the scope of” after “by regulation, revoke” in the portion before clause (a).

(2) Subsections 6 (3) to (5) of the Act are repealed and the following substituted:

If failure remedied

(3) The Lieutenant Governor in Council shall not act under clause (1) (a) if the designated administrative authority remedies its failure within the time period that the Minister specifies under clause (2) (a).

Voluntary revocation

(4) A designated administrative authority may request that the Lieutenant Governor in Council revoke or restrict the scope of the designation of legislation for which the administration is delegated to the administrative authority or revoke its designation and in that case the Lieutenant Governor in Council shall, by regulation, revoke or restrict the designation on the terms that it considers advisable in the public interest.

Non-application of SPPA

(5) The *Statutory Powers Procedure Act* does not apply to the exercise by the Lieutenant Governor in Council of a right under this section to revoke or restrict the scope of a designation.

Transitional regulations

(6) If the Lieutenant Governor in Council revokes or restricts the scope of a designation under this section, the Lieutenant Governor in Council may, by regulation, provide for any transitional matter that the Lieutenant Governor in Council considers necessary for the effective implementation of the revocation or restriction, including,

- (a) the transfer, without compensation, of any property, including assets, liabilities, rights, obligations, records, databases, bank accounts and money, that the designated administrative authority holds in respect of carrying out its activities under the Act, the designated legislation and the administrative agreement; and
- (b) the assignment, without compensation, of any contracts that the authority has entered into before the revocation.

No Crown liability

(7) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of the revocation or restriction of the designation of an administrative authority or any regulation made under subsection (6).

No proceeding

(8) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (7).

6 Subsection 7 (2) of the Act is repealed and the following substituted:

Additional activities

(2) Subject to subsection (3), nothing in this Act restricts a designated administrative authority from carrying out other activities in accordance with its objects.

Restriction on commercial activity

(3) A designated administrative authority shall not engage in commercial activity through an individual, corporation or other entity that is related to the administrative authority.

7 Subsection 8 (5) of the Act is repealed and the following substituted:

Percentages of board members

(5) The Minister may, by order, provide that no more than a fixed percentage of members of the board shall be drawn from among the persons or classes of persons specified in the order.

Number of board members

(5.1) The Minister may, by order, increase or decrease the number of members of the board.

Chair

(5.2) The Minister may appoint a chair of the board from among the members of the board.

8 The Act is amended by adding the following sections:**Minister's authority re change to objects or purposes**

8.1 (1) Subject to section 13.7, the Minister may require that a designated administrative authority make a specified change to its objects or purposes.

Same

(2) No change shall be made to a designated administrative authority's objects or purposes unless the Minister's written approval is obtained in advance.

Minister's authority re board of directors**Eligibility and nomination**

8.2 (1) The Minister may, by order,

- (a) establish competency criteria for members of the board of directors of a designated administrative authority; and
- (b) establish rules about the nomination of board members, the appointment or election process, the length of their terms and whether they may be reappointed or re-elected.

Restriction

(2) A person is qualified to be appointed or elected to the board only if the person meets the competency criteria, if any, established under subsection (1).

9 (1) Subsections 11 (1) to (3) of the Act are repealed and the following substituted:**No personal liability, employee of the Crown**

- (1) No action or other proceeding shall be instituted against a current or former employee of the Crown for,
- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations, a Minister's order or the designated legislation; or
 - (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a).

Tort by employee of the Crown

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject.

No Crown liability

(3) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations, a Minister's order or the designated legislation.

Same

(3.1) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (3).

Application

(3.2) Without limiting the generality of subsection (3.1), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada.

Revocation or restriction

(3.3) Subsections (1) to (3.2) apply, with necessary modifications, in respect of a direct or indirect result of the revocation or restriction of a designation under section 6 or any regulation made under subsection 6 (6).

(2) Subsection 11 (4) of the Act is repealed and the following substituted:**Indemnification**

(4) A designated administrative authority shall indemnify the Crown, in accordance with the administrative agreement, in respect of damages and costs incurred by the Crown for any act or omission of the administrative authority or its members, officers, directors, employees or agents in the exercise or performance or intended exercise or performance of their duties and

powers under this Act, the regulations, a Minister's order, the designated legislation or the administrative agreement, or for any act or omission otherwise connected to this Act, the regulations, a Minister's order, the designated legislation or the administrative agreement.

10 Section 11.1 of the Act is repealed and the following substituted:

No personal liability

11.1 (1) No action or other proceeding shall be instituted against a person mentioned in subsection (2), or who was formerly such a person, for any act done in good faith in the exercise or performance or intended exercise or performance of any of the person's duties or powers under designated legislation or a Minister's order made under designated legislation, or for any neglect or default in the exercise or performance in good faith of such a duty or power.

Application

(2) Subsection (1) applies to the following persons:

1. A Director or director to whom designated legislation gives duties or powers.
2. A deputy director,
 - i. to whom duties are assigned by a director referred to in paragraph 1, or
 - ii. who is acting as a director referred to in paragraph 1.
3. A Registrar or registrar.
4. A deputy registrar,
 - i. to whom duties are assigned by a registrar, or
 - ii. who is acting as a registrar.
5. An inspector.
6. An investigator.
7. A director or an officer of a designated administrative authority.
8. A person whom a designated administrative authority employs or whose services the authority retains under subsection 9 (1).
9. An agent of a designated administrative authority.
10. A member of a discipline committee or of an appeals committee under designated legislation.

Liability of designated administrative authority

(3) Subsection (1) does not relieve a designated administrative authority of liability to which it would otherwise be subject in respect of the acts or omissions of a person mentioned in subsection (2).

11 (1) Subsections 12 (1) to (3) of the Act are repealed and the following substituted:

Forms, fees, etc.

- (1) Subject to subsection (2), a designated administrative authority may,
 - (a) establish forms related to the administration of the designated legislation delegated to it;
 - (b) set and collect fees, costs or other charges related to the administration of the designated legislation delegated to it if it does so in accordance with the process and criteria that it establishes and that the Minister has approved;
 - (c) set payments that persons are required to make to any fund or account established or continued under the designated legislation whose administration is delegated to it if it does so in accordance with the process and criteria that it establishes and that the Minister has approved; and
 - (d) make rules governing the payment of the fees, costs and charges described in clause (b) and the payments described in clause (c).

Setting fees

(2) In setting the fees, costs and charges described in clause (1) (b) and the payments described in clause (1) (c), a designated administrative authority may specify the amounts of them or the method for determining the amounts.

Notice to Minister

(3) A designated administrative authority may not establish forms, fees, costs, other charges or payments under subsection (1) that conflict with any provision of the designated legislation or the regulations made under it unless,

- (a) the administrative authority gives written notice to the Minister of all provisions of the designated legislation or the regulations made under it that are involved in the conflict; and
- (b) at least 60 days have passed since the notice referred to in clause (a) is given.

Previous forms and fees

(3.1) All provisions of the designated legislation or the regulations made under it that conflict with forms, fees, costs, other charges and payments that a designated administrative authority establishes under subsection (1) shall be deemed to be of no effect if the administrative authority has complied with subsections (1) and (3).

Publication of fees, etc.

(3.2) A designated administrative authority,

- (a) shall publish the fees, costs, other charges and payments, the process and criteria and the rules referred to in subsection (1) on its website and in any other way required in the administrative agreement; and
- (b) may publish the information referred to in clause (a) in any other format the administrative authority considers advisable.

(2) Subsection 12 (4) of the Act is repealed and the following substituted:

Not public money

(4) The money that a designated administrative authority collects in carrying out the administration delegated to it is not public money within the meaning of the *Financial Administration Act* and, subject to subsection 7 (3), the administrative authority may use it to carry out activities in accordance with its objects or any other purpose reasonably related to its objects.

12 The Act is amended by adding the following section:

Public access to by-laws

12.1 A designated administrative authority shall make its by-laws available on its website, and by any other means that the administrative authority determines, within the time specified in the administrative agreement or, if no time is specified in the agreement, within 10 days after the by-laws are passed by the board of the administrative authority.

13 The Act is amended by adding the following sections:

Public access to information

12.2 A designated administrative authority shall follow the prescribed processes and procedures, if any, with respect to providing access to the public to records of the administrative authority and with respect to managing personal information contained in those records.

Disclosure of compensation and other payments

12.3 (1) The Minister may, by order, require a designated administrative authority to make available to the public, on its website and by any other means that the administrative authority determines, any information specified by the Minister relating to,

- (a) the compensation that the administrative authority pays to members of its board of directors, its officers and its employees; and
- (b) any other payments that the administrative authority makes or is required to make to the persons mentioned in clause (a).

Information for prior period

(2) An order made under subsection (1) may require that the designated administrative authority make available to the public information referred to in that subsection with respect to a member of the board of directors or one of its officers who was in office on the day this section came into force or an individual who was one of its employees on that day, where the information is for a period that began before that day.

Effect of compliance

(3) If the designated administrative authority makes information available to the public in accordance with an order made under subsection (1) or in the reasonable belief that action is required by the order, no court, person or other entity shall find that the administrative authority,

- (a) has contravened any Act enacted or regulation made before or after this section came into force; or
- (b) is in breach of or has contravened any agreement that purports to restrict or prohibit that action, regardless of whether the agreement is made before or after this section came into force.

Definition

(4) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments.

14 (1) The Act is amended by adding the following section:

Audit

12.4 (1) The Auditor General appointed under the *Auditor General Act* may conduct an audit of a designated administrative authority, other than an audit required under the *Corporations Act*.

Access

(2) When the Auditor General conducts an audit under subsection (1), the designated administrative authority shall give the Auditor General and employees of the Auditor General access to all records and other information required to conduct the audit.

(2) Subsection 12.4 (1) of the Act, as enacted by subsection (1), is amended by striking out “Corporations Act” at the end and substituting “Not-for-Profit Corporations Act, 2010”.

15 Section 13 of the Act is repealed and the following substituted:

Reports

13 (1) The board of a designated administrative authority shall report to the Minister within one year of the effective date of its designation under this Act, and each year after that, on its activities and financial affairs in respect of this Act, the administrative agreement, the designated legislation for which administration is delegated to the administrative authority and the regulations made under this Act and the designated legislation.

Form and contents

(2) The report shall be in a form acceptable to the Minister and shall provide the particulars that the Minister requires.

Disclosure by administrative authority

(3) The board of a designated administrative authority shall publish the report on its website and by any other method within the period and in the manner the Minister requires.

Policy directions

13.1 (1) Subject to section 13.7, the Minister may issue policy directions to a designated administrative authority relating to its administration of designated legislation, after giving the administrative authority the notice that the Minister considers reasonable in the circumstances.

Part of agreement

(2) The policy directions issued under subsection (1) are deemed to form part of the administrative agreement.

Compliance required

(3) The designated administrative authority shall comply with the policy directions and shall implement measures to do so.

Consultation

13.2 The Minister may consult with a designated administrative authority about proposed legislative or policy changes that may affect the administrative authority and its activities.

Advisory councils

13.3 (1) The Minister may, by order, require a designated administrative authority to,

- (a) establish one or more advisory councils; and
- (b) include, as members of an advisory council, representatives of the public, consumer groups, businesses or government organizations and other persons as the Minister determines.

Advisory process

(2) The Minister may, by order, require a designated administrative authority to undertake an advisory process in which it seeks advice from one or both of the public and persons with experience or knowledge relating to the designated legislation that is delegated to the administrative authority.

Minister’s authority to require reviews

13.4 (1) The Minister may,

- (a) require that policy, legislative or regulatory reviews related to designated legislation that is delegated to an administrative authority or the administrative agreement be carried out,
 - (i) by or on behalf of the designated administrative authority, or

- (ii) by a person or entity specified by the Minister; and
- (b) require that reviews of a designated administrative authority, of its operations, or of both, including, without limitation, performance, governance, accountability and financial reviews, be carried out,
 - (i) by or on behalf of the administrative authority, or
 - (ii) by a person or entity specified by the Minister.

Access to records, etc.

(2) When a review is carried out under subsection (1) (a) (ii) or (1) (b) (ii), the designated administrative authority shall give the person or entity specified by the Minister and the person's or entity's employees or agents access to all records and other information required to conduct the review.

Terms and conditions

(3) The Minister may impose terms and conditions relating to a review the Minister requires under subsection (1).

Duty to advise the Minister

13.5 A designated administrative authority shall promptly inform and advise the Minister with respect to,

- (a) any information that could affect the administrative authority's ability to perform its duties under this Act or the designated legislation; and
- (b) any urgent or critical matter that is likely to require action by the Minister to ensure that the administration of designated legislation delegated to the administrative authority is carried out properly.

Advice or reports

13.6 (1) A designated administrative authority shall advise or report to the Minister, within the time period that the Minister specifies, on any matter that the Minister refers to it and that relates to this Act or the designated legislation delegated to the administrative authority.

Suggestions

(2) A designated administrative authority may suggest to the Minister amendments to Ontario legislation that it considers would further the purpose of this Act or of the designated legislation or would assist the administrative authority in administering the designated legislation delegated to the administrative authority.

Conditions precedent

13.7 The Minister may exercise a power under subsection 4 (4), 5.1 (1) or 8.1 (1) or section 13.1 or any other provision prescribed in the regulations only if the Minister is of the opinion that it is advisable to exercise the power in the public interest because at least one of the following conditions is satisfied:

1. The exercise of the power is necessary to prevent serious harm to public safety or to the interests of the public or consumers.
2. An event of force majeure has occurred.
3. The designated administrative authority is facing a risk of insolvency.
4. The number of members of the board of the authority is insufficient for a quorum.

16 The Act is amended by adding the following section:

Provision of services in French

13.8 (1) A person has the right to communicate in French with a designated administrative authority and to receive available services in French from the administrative authority.

Board to ensure

(2) The board of directors of the designated administrative authority shall take all reasonable measures and make all reasonable plans to ensure that persons may exercise the right to use French given by this section.

Limitation

(3) The right to use French given by this section is subject to the limits that are reasonable in the circumstances and to any exemptions that may be provided for in the regulations.

Definition

(4) In this section,

“service” means any service or procedure that is provided to the public by a designated administrative authority in the administration of the designated legislation delegated to the administrative authority and includes responding to inquiries from members of the public and any communications for the purpose of providing the service or procedure.

17 The Act is amended by adding the following section:

Publication of orders

14.1 The Minister shall publish any orders that the Minister makes under this Act on a website of the Government of Ontario.

18 (1) The Act is amended by adding the following section:

Non-application

14.2 Subsections 129 (2) and (3) of the *Corporations Act* do not apply to a designated administrative authority with respect to by-laws that are necessary to implement a Minister’s order made under this Act.

(2) Section 14.2 of the Act, as enacted by subsection (1), is repealed and the following substituted:

Non-application

14.2 Subsections 17 (2) to (5) of the *Not-for-Profit Corporations Act, 2010* do not apply to a designated administrative authority with respect to by-laws that are necessary to implement a Minister’s order made under this Act.

19 (1) Subsection 15 (1) of the Act is amended by adding the following clauses:

- (0.a) prescribing anything that, under this Act, may be prescribed in the regulations;
- (0.b) defining words and expressions used in this Act that are not otherwise defined in this Act;
- (0.c) governing any transitional matters arising from the enactment of Schedule 8 to the *Rebuilding Consumer Confidence Act, 2020*;

(2) Subsection 15 (1) of the Act is amended by striking out “or” at the end of clause (c) and by adding the following clause:

- (c.1) providing for further exemptions from or alterations to the application of the *Corporations Act* or the regulations made under it to designated administrative authorities;

(3) Clause 15 (1) (c.1) of the Act, as enacted by subsection (2), is amended by striking out “Corporations Act” and substituting “Not-for-Profit Corporations Act, 2010”.

(4) Subsection 15 (1) of the Act is amended by adding the following clause:

- (c.2) exempting services from the application of section 13.8;

(5) Section 15 of the Act is amended by adding the following subsection:

Conflict

(3) If there is a conflict between a regulation made under clause (1) (0.c) and any Act or any other regulation, the regulation made under that clause prevails.

20 The Schedule to the Act is amended by adding the following item:

Condominium Management Services Act, 2015

Delegated Administrative Authorities Act, 2012

21 The Delegated Administrative Authorities Act, 2012 is repealed.

Strong Action for Ontario Act (Budget Measures), 2012

22 Subsection 36 (1) to Schedule 21 to the Strong Action for Ontario Act (Budget Measures), 2012 is repealed.

Stronger, Fairer Ontario Act (Budget Measures), 2017

23 Subsection 1 (2) of Schedule 26 to the Stronger, Fairer Ontario Act (Budget Measures), 2017 is repealed.

Restoring Trust, Transparency and Accountability Act, 2018

24 (1) Section 13 of Schedule 15 to the Restoring Trust, Transparency and Accountability Act, 2018 is repealed.

(2) Section 5 of Schedule 45 to the Act is repealed.

Commencement

25 (1) Subject to subsections (2) and (3), this Schedule comes into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

(2) Sections 1 and 6, subsections 9 (2), 11 (2) and sections 12, 16 and 17, subsection 19 (4) and section 20 come into force on a day to be named by proclamation of the Lieutenant Governor.

(3) Subsections 14 (2), 18 (2) and 19 (3) come into force on the later of the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent and the day subsection 4 (1) of the *Not-for-Profit Corporations Act, 2010* comes into force.

SCHEDULE 9
TECHNICAL STANDARDS AND SAFETY ACT, 2000

1 The *Technical Standards and Safety Act, 2000* is amended by adding the following section:

Conflict

3.4.1 In the event of a conflict, a Minister's order made under this Act prevails over the memorandum of understanding and the Corporation's by-laws and resolutions.

2 Section 3.5 of the Act is amended by adding the following subsection:

Restriction, commercial activity

(2) The Corporation shall not engage in commercial activity through an individual, corporation or other entity that is related to the Corporation.

3 (1) Subsection 3.7 (3) of the Act is repealed and the following substituted:

Appointed directors

(3) The Minister may appoint at pleasure directors to the board for a term specified in the appointment as long as the directors appointed by the Minister do not constitute a majority of the board.

(2) Section 3.7 of the Act is amended by adding the following subsections:

Composition of the board, Minister's order

(7.1) The Minister may, by order, provide that no more than a fixed percentage of members of the board shall be drawn from among the persons or classes of persons specified in the order.

Competency criteria

(8.1) The Minister may, by order,

- (a) establish competency criteria for members of the board of the Corporation; and
- (b) establish rules about the nomination of board members, the appointment or election process, the length of their terms and whether they may be reappointed or re-elected.

(3) Subsection 3.7 (9) of the Act is amended by adding "established or" after "competency criteria".

4 Section 3.8 of the Act is amended by adding the following subsection:

Public access to Corporation by-laws

(2) The Corporation shall make its by-laws available on its website, and by any other means that the Corporation determines, within the time specified in the memorandum of understanding or, if no time is specified in the memorandum of understanding, within 10 days after the by-laws are made by the board.

5 Section 3.10 of the Act is repealed and the following substituted:

Advisory councils

3.10 (1) The Minister may, by order, require the Corporation to,

- (a) establish one or more advisory councils; and
- (b) include, as members of an advisory council, representatives of the public, consumer groups, businesses or government organizations and other persons as the Minister determines.

Advisory process

(2) The Minister may, by order, require the Corporation to undertake an advisory process in which it seeks advice from one or both of the public and persons with experience or knowledge relating to public safety.

Transition

(3) An advisory council established by by-law under this section as it read before section 5 of Schedule 9 to the *Rebuilding Consumer Confidence Act, 2020* came into force continues until such time as the Minister exercises the power under subsection (1).

6 Section 3.13 of the Act is amended by adding the following subsections:

Duty to inform Minister

(3) The Corporation shall promptly inform and advise the Minister with respect to,

- (a) any information that could affect the Corporation's ability to perform its duties under this Act, the regulations and alternate rules; and
- (b) any urgent or critical matter that is likely to require action by the Minister to ensure the administration of this Act, the regulations and alternate rules are carried out properly.

Suggestion to Minister

(4) The Corporation may suggest to the Minister amendments to Ontario legislation that it considers would further the purpose of this Act, the regulations and alternate rules or that would assist the Corporation in administering this Act, the regulations and alternate rules.

7 (1) Subsection 3.14 (1) of the Act is repealed and the following substituted:

Policy directions

(1) Subject to section 3.23.2, the Minister may issue policy directions to the Corporation after giving the Corporation the notice that the Minister considers reasonable in the circumstances.

(2) Section 3.14 of the Act is amended by adding the following subsection:

Part of MOU

(2.1) The policy directions are deemed to form part of the memorandum of understanding.

8 Section 3.15 of the Act is repealed and the following substituted:

Memorandum of understanding

3.15 (1) The Minister and the Corporation shall enter into a memorandum of understanding, which shall include, at a minimum, terms relating to the following matters:

1. All matters the Minister considers necessary regarding the administration of this Act, the regulations and alternate rules by the Corporation.
2. The governance of the Corporation.
3. The maintenance by the Corporation of adequate insurance against liability arising out of its carrying out the administration of this Act, the regulations and alternate rules.
4. Financial matters, including payments to the Crown, licence fees, royalties and reimbursements for transfer of assets.
5. Any other matter related to the Corporation's public safety responsibilities.

Minister's terms

(2) Subject to section 3.23.2, on giving notice to the Corporation that the Minister considers reasonable in the circumstances, the Minister may amend, add or delete a term in the memorandum of understanding.

Transition

(3) Despite subsection (1), any memorandum of understanding that was in effect immediately before the coming into force of section 8 of Schedule 9 to the *Rebuilding Consumer Confidence Act, 2020* remains in force according to its terms until it is otherwise amended or revoked, but for greater certainty, subsection (2) applies to such a memorandum of understanding.

9 (1) Subsection 3.16 (1) of the Act is repealed and the following substituted:

No personal liability, directors, inspectors, etc.

(1) No action or other proceeding shall be instituted against a person mentioned in subsection (2), or someone who was formerly such a person, for an act done in good faith in the exercise or performance or intended exercise or performance of any of the person's duties or powers under this Act, the regulations, a Minister's order or an alternate rule, or for any neglect or default in the exercise or performance in good faith of such a duty or power.

(2) Subsection 3.16 (3) of the Act is amended by striking out "any liability" and substituting "liability".

10 (1) Subsections 3.17 (1) to (3) of the Act are repealed and the following substituted:

No personal liability, employee of the Crown

- (1) No action or other proceeding shall be instituted against a current or former employee of the Crown for,
- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations, a Minister's order or an alternate rule; or
 - (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a).

Tort by employee of the Crown

(2) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (1) of this section does not relieve the Crown of liability in respect of a tort committed by an employee of the Crown to which it would otherwise be subject.

No Crown liability

(3) No cause of action arises against the Crown, a minister of the Crown, a Crown employee or a Crown agent as a direct or indirect result of any act or omission of a person who is not a minister of the Crown, a Crown employee or a Crown agent if the act or omission is related, directly or indirectly, to the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations, a Minister's order or an alternate rule.

No proceeding

(3.1) No proceeding, including but not limited to any proceeding in contract, restitution, tort or trust, shall be instituted against the Crown, a minister of the Crown, a Crown employee or a Crown agent by a person who has suffered any damages, injury or other loss based on or related to any cause of action described in subsection (3).

Application

(3.2) Without limiting the generality of subsection (3.1), that subsection applies to any action or other proceeding claiming any remedy or relief, including specific performance, injunction or declaratory relief, any form of compensation or damages, including loss of revenue and loss of profit, or any other remedy or relief, and includes a proceeding to enforce a judgment, order or award made by a court, tribunal or arbitrator outside of Canada.

(2) Subsection 3.17 (4) of the Act is repealed and the following substituted:

Indemnification

(4) The Corporation shall indemnify the Crown, in accordance with the memorandum of understanding under section 3.15, in respect of damages and costs incurred by the Crown for any act or omission of the Corporation or its members, officers, directors, employees or agents in the exercise or performance or intended exercise or performance of their duties and powers under this Act, the regulations, a Minister's order, an alternate rule or the memorandum of understanding, or for any act or omission otherwise connected to this Act, the regulations, a Minister's order, an alternate rule or the memorandum of understanding.

11 Section 3.18 of the Act is amended by adding the following subsection:

Publication of fees, etc.

- (3) The Corporation,
- (a) shall publish the fees, costs or other charges and processes, criteria and rules referred in clauses (1) (b) and (c) on its website and in any other way that may be provided for in the memorandum of understanding; and
 - (b) may publish the information referred to in clause (a) in any other format the Corporation considers advisable.

12 Section 3.19 of the Act is amended by striking out "and the Corporation" and substituting "and, subject to subsection 3.5 (2), the Corporation".

13 The Act is amended by adding the following section:

Provision of services in French

3.19.1 (1) A person has the right to communicate in French with the Corporation and to receive available services in French from the Corporation.

Board to ensure

(2) The board of directors of the Corporation shall take all reasonable measures and make all reasonable plans to ensure that persons may exercise the right to use French given by this section.

Limitation

(3) The right to use French given by this section is subject to the limits that are reasonable in the circumstances and to any exemptions that may be provided for in the regulations.

Definition

(4) In this section,

"service" means any service or procedure that is provided to the public by the Corporation in the administration of this Act, regulations or alternate rules and includes responding to inquiries from members of the public and any other communications for the purpose of providing the service or procedure.

14 The Act is amended by adding the following sections:

Public access to information

3.19.2 The Corporation shall follow the prescribed processes and procedures, if any, with respect to providing access to the public to records of the Corporation and with respect to managing personal information contained in those records.

Disclosure of compensation and other payments

3.19.3 (1) The Minister may, by order, require the Corporation to make available to the public, on its website and by any other means that the Corporation determines, any information specified by the Minister relating to,

- (a) the compensation that the Corporation pays to members of its board of directors, its officers and its employees; and
- (b) any other payments that the Corporation makes or is required to make to the persons mentioned in clause (a).

Information for prior period

(2) An order made under subsection (1) may require that the Corporation make available to the public information referred to in that subsection with respect to a member of the board of directors or one of its officers who was in office on the day this section came into force or an individual who was one of its employees on that day, where the information is for a period that begins before that day.

Effect of compliance

(3) If the Corporation makes information available to the public in accordance with an order made under subsection (1) or in the reasonable belief that action is required by the order, no court, person or other entity shall find that the Corporation,

- (a) has contravened any Act enacted or regulation made before or after this section came into force; or
- (b) is in breach of or has contravened any agreement that purports to restrict or prohibit that action, regardless of whether the agreement is made before or after this section came into force.

Definition

(4) In this section,

“compensation” means anything paid or provided, directly or indirectly, to or for the benefit of a person who performs duties and functions that entitle the person to be paid, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments.

15 Section 3.20 of the Act is repealed and the following substituted:

Reports

3.20 (1) Each year, the board of directors of the Corporation shall report to the Minister on its activities and financial affairs in respect of this Act, the regulations, Minister’s orders, the alternate rules and the memorandum of understanding.

Form and contents

(2) The report shall be in a form acceptable to the Minister and shall provide the information that the Minister requires.

Disclosure by the Corporation

(3) The board of the Corporation shall publish the report on its website and by any other method within the period and in the manner the Minister requires.

16 (1) Clauses 3.21 (1) (a) and (b) of the Act are repealed and the following substituted:

- (a) consult with the Corporation regarding proposed legislative or policy changes that may affect the Corporation and its activities;
- (b) require that reviews of the Corporation, of its operations, or of both, including, without being limited to, performance, governance, accountability and financial reviews, be carried out by or on behalf of the Corporation or such other person or entity as the Minister may specify; and

(2) Section 3.21 of the Act is amended by adding the following subsection:

Access to records

(3) If a review is carried out under clause (1) (b) or (c) by a person or entity specified by the Minister, the Corporation shall give the person or entity specified by the Minister and the employees or agents of the person or entity access to all records and other information required to conduct the review.

17 (1) The French version of section 3.23 of the Act is amended by adding “général” after “administrateur” wherever it appears.

(2) Subsections 3.23 (1) and (2) of the Act are repealed and the following substituted:

Administrator

(1) Subject to section 3.23.2, the Minister may, by order, appoint an individual as an administrator of the Corporation for the purposes of assuming control of the Corporation and responsibility for its activities.

Notice of appointment

(2) The Minister shall give the board of directors of the Corporation the notice that the Minister considers reasonable before appointing the administrator.

(3) Subsection 3.23 (11) of the Act is repealed and the following substituted:

No personal liability

(11) No action or other proceeding shall be instituted against the administrator or a former administrator for,

- (a) any act done in good faith in the exercise or performance or intended exercise or performance of a duty or power under this Act, the regulations, a Minister's order, an alternate rule or the appointment under subsection (1); or
- (b) any neglect or default in the exercise or performance in good faith of a duty or power described in clause (a).

(4) Subsection 3.23 (13) of the Act is amended by striking out "any liability" and substituting "liability".

18 The Act is amended by adding the following sections:

Status of the board during administrator's tenure

3.23.1 (1) On the appointment of an administrator under section 3.23, the members of the board of the Corporation cease to hold office, unless the order provides otherwise.

Same

(2) During the term of the administrator's appointment, the powers of any member of the board who continues to hold office are suspended, unless the order provides otherwise.

No personal liability

(3) No action or other proceeding shall be instituted against a member or former member of the board of the Corporation for any act, neglect or default done by the administrator or the Corporation after the member's removal under subsection (1) or while the member's powers are suspended under subsection (2).

Crown liability

(4) Despite subsection 8 (3) of the *Crown Liability and Proceedings Act, 2019*, subsection (3) of this section does not relieve the Crown of liability to which it would otherwise be subject.

Liability of Corporation

(5) Subsection (3) does not relieve the Corporation of liability to which it would otherwise be subject.

Condition precedent

3.23.2 The Minister may exercise a power under subsection 3.14 (1), 3.15 (2) or 3.23 (1) or any other prescribed provision only if the Minister is of the opinion that it is advisable to exercise the power in the public interest because at least one of the following conditions is satisfied:

1. The exercise of the power is necessary to prevent serious harm to public safety or to the interests of the public.
2. An event of force majeure has occurred.
3. The Corporation is facing a risk of insolvency.
4. The number of members of the board of the Corporation is insufficient for a quorum.

19 (1) Subsection 34 (1) of the Act is amended by adding the following clause:

(a.1) defining words and expressions used in this Act that are not otherwise defined in this Act;

(2) Subsection 34 (1) of the Act is amended by adding the following clause:

(a.2) exempting services from the application of section 3.19.1;

20 The Act is amended by adding the following section:

Publication of orders

36.2 The Minister shall publish any orders, alternate rules and exemptions the Minister makes under this Act on a website of the Government of Ontario.

Commencement

21 (1) Subject to subsection (2), this Schedule comes into force on the day the *Rebuilding Consumer Confidence Act, 2020* receives Royal Assent.

(2) Sections 2 and 4, subsection 10 (2), section 13, subsection 19 (2) and section 20 come into force on a day to be named by proclamation of the Lieutenant Governor.

**SCHEDULE 10
TICKET SALES ACT, 2017**

1 Subsection 7 (2) of the *Ticket Sales Act, 2017* is repealed and the following substituted:

Canadian currency to be used

(2) The ticket business shall ensure that,

- (a) any dollar amounts listed in the offer are listed in Canadian currency; and
- (b) the ticket purchaser is charged in Canadian currency.

Commencement

2 This Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.