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Bill 106

An Act to enact two Acts and amend various other Acts

The Hon. P. Sarkaria
President of the Treasury Board

Government Bill

1st Reading March 29, 2022
2nd Reading
3rd Reading
Royal Assent



EXPLANATORY NOTE

SCHEDULE 1 EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT

The Schedule amends the *Emergency Management and Civil Protection Act*.

Section 5.1 is amended to require emergency management programs to regularly assess hazards and risks to public safety. Emergency management programs must also identify the necessary goods, services and resources that would be required to respond to the identified hazards and risks. This information must be provided to the Chief, Emergency Management Ontario annually and at any other requested time.

New section 6.0.1 requires the Solicitor General to formulate a provincial emergency management plan that describes how Ontario will co-ordinate the response to any emergency that requires co-ordination at the provincial level.

Section 6.1 is amended to consolidate the Lieutenant Governor's authority to appoint both the Commissioner of Emergency Management and the Chief, Emergency Management Ontario into a single section. The Commissioner operates under the direction of the Solicitor General, and the Chief operates under the direction of the Commissioner.

New section 6.1.1 requires the Solicitor General to develop a written framework for accountability and governance during emergencies and make it available to the public. The Solicitor General, Commissioner of Emergency Management and Chief, Emergency Management Ontario and other prescribed ministers are required to operate in compliance with it.

SCHEDULE 2 MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS ACT

The Schedule amends clause 4 (2) (b) of the *Ministry of Agriculture, Food and Rural Affairs Act* to specify that the Minister of the Ministry may establish policies and provide recommendations, advice, coordination and assistance to the Government respecting a safe and stable food supply. In addition, under a new section 4.2, the Minister is required to report on the safety and stability of Ontario's food supply.

SCHEDULE 3 ONTARIO FOOD TERMINAL ACT

The *Ontario Food Terminal Act* is amended to require the Ontario Food Terminal Board to develop and maintain a contingency plan with respect to the carrying out of its operations and undertakings during emergency situations that may put the continuity of those operations and undertakings at risk.

SCHEDULE 4 PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004

The Schedule amends the *Personal Health Information Protection Act, 2004*. It adds a regulation-making power to authorize the Agency to specify electronic formats to which the right of access to personal health information applies. It also adds a new regulation-making power governing various aspects of the collection, use and disclosure of personal health information by Ontario Health Teams and persons or entities that are authorized to use the title of "Ontario Health Team".

SCHEDULE 5 PERSONAL PROTECTIVE EQUIPMENT SUPPLY AND PRODUCTION ACT, 2022

The Schedule enacts the *Personal Protective Equipment Supply and Production Act, 2022*. The following are some of the highlights of the Act:

The Act requires the Minister to maintain a supply of personal protective equipment and critical supplies and equipment.

The Act authorizes the Minister to provide or support supply chain management in respect of personal protective equipment and critical supplies and equipment on behalf of government entities and public sector entities. The Minister may also provide such supply chain management for other entities and individuals, if certain conditions are met.

The Act prohibits a person from selling or offering to sell any personal protective equipment or critical supplies and equipment that the person obtained as a result of supply chain management provided by the Minister and without charge or payment of a fee. A person who contravenes the prohibition is liable to a fine.

Consequential amendments are made to the *Supply Chain Management Act (Government, Broader Public Sector and Health Sector Entities), 2019*, including providing that that Act does not include activities related to the procurement of personal protective equipment and critical supplies and equipment.

SCHEDULE 6 REGULATED HEALTH PROFESSIONS ACT, 1991

The Schedule amends the *Regulated Health Professions Act, 1991* to add new requirements to the Health Professions Procedural Code and to add related regulation-making powers.

The amendments to the Health Professions Procedural Code require Colleges to comply with the regulations respecting their English or French language proficiency requirements. They also prohibit Colleges from requiring Canadian experience as a qualification for registration, subject to any exemptions provided for in the regulations. They also require the Councils of the Colleges to make regulations establishing an emergency class of registration that meets the requirements set out in the regulations. These requirements come into force on a day to be named by proclamation of the Lieutenant Governor.

New regulation-making powers are added to the Act in relation to these new requirements. An additional regulation-making power is added that would allow for the establishment of time limits in which Colleges must make certain decisions related to registration. These regulation-making powers come into force on Royal Assent.

SCHEDULE 7
SUPPORTING RETENTION IN PUBLIC SERVICES ACT, 2022

The Schedule enacts the *Supporting Retention in Public Services Act, 2022*.

The Act authorizes the provision of funding for employers to enhance the compensation paid to employees of the employer for the purpose of supporting the provision of public services. Eligibility for funding is determined in accordance with compensation enhancement programs set out in the regulations.

The Act describes the treatment of compensation received under a compensation enhancement program for the purposes of the *Pay Equity Act* and the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*. Other rules are set out with respect to labour and employment matters.

An Act to enact two Acts and amend various other Acts

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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) Except as otherwise provided in this section, 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 *Pandemic and Emergency Preparedness Act, 2022*.

**SCHEDULE 1
EMERGENCY MANAGEMENT AND CIVIL PROTECTION ACT**

1 (1) The definition of “emergency plan” in section 1 of the *Emergency Management and Civil Protection Act* is amended by striking out “6, 8” and substituting “6, 6.0.1, 8”.

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

“necessary goods, services and resources” includes food, water, electricity, fossil fuels, clothing, equipment, transportation and medical services and supplies; (“denrées, services et ressources nécessaires”)

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means regulations made under this Act. (“règlements”)

2 Subsection 5.1 (2) of the Act is repealed and the following substituted:

Hazard and risk assessment and infrastructure identification

(2) In developing an emergency management program, every minister of the Crown and every designated agency, board, commission and other branch of government shall identify and regularly monitor and assess the various hazards and risks to public safety that could give rise to emergencies and identify the facilities and other elements of the infrastructure for which the minister or agency, board, commission or branch is responsible that are at risk of being affected by emergencies.

Same, identification of necessary goods, services and resources

(2.1) The emergency management program must include an identification of the necessary goods, services and resources that would be required to respond to the hazards and risks identified under subsection (2) and the availability and readiness of those necessary goods, services and resources.

Same, provision upon request

(2.2) Every minister of the Crown and every designated agency, board, commission and other branch of government shall provide information on the hazards and risks identified under subsection (2) and the related information described in subsection (2.1) to the Chief, Emergency Management Ontario annually and at any other time requested by the Chief.

3 Section 6 of the Act is amended by adding the following subsection:

Plan shall reflect provincial emergency management plan

(1.1) The emergency plan must reflect any relevant contents from the provincial emergency management plan formulated under section 6.0.1.

4 The Act is amended by adding the following section:

Provincial emergency management plan

6.0.1 (1) The Solicitor General shall formulate a provincial emergency management plan that describes how Ontario will co-ordinate the response to any emergency that requires co-ordination at the provincial level.

Training and exercises

(2) The Solicitor General shall conduct training programs and exercises to ensure the readiness of public servants and other persons to act under the provincial emergency management plan.

Annual report

(3) The Solicitor General shall prepare an annual report detailing the progress that has been made on achieving the objectives of the provincial emergency management plan.

Review and revision of plan

(4) The Solicitor General shall review the provincial emergency management plan and revise it at least every five years.

Publication

(5) The Solicitor General shall make the provincial emergency management plan and the annual report described in subsection (3) available to the public on a website of the Government of Ontario or in such other manner as may be prescribed.

5 Section 6.1 of the Act is revoked and the following substituted:

Commissioner and Chief

6.1 (1) The Lieutenant Governor shall appoint a Commissioner of Emergency Management and a Chief, Emergency Management Ontario.

Commissioner operates under direction of Solicitor General

(2) The Commissioner of Emergency Management operates under the direction of the Solicitor General.

Chief operates under direction of Commissioner

(3) The Chief, Emergency Management Ontario operates under the direction of the Commissioner of Emergency Management.

Responsibilities of Chief

(4) The Chief, Emergency Management Ontario is responsible for monitoring, co-ordinating and assisting in the development and implementation of emergency management programs under sections 2.1 and 5.1 and for ensuring that those programs are co-ordinated in so far as possible with emergency management programs and emergency plans of the Government of Canada and its agencies.

Transition

(5) The appointments of the Commissioner of Emergency Management and the Chief, Emergency Management Ontario that were in effect immediately before this subsection came into force are continued on the day this subsection comes into force as appointments made under this section.

Accountability and governance framework

6.1.1 (1) The Solicitor General shall develop a written framework for accountability and governance during emergencies.

Contents

(2) The framework shall articulate,

- (a) the role, authority, powers and responsibilities of the Solicitor General, the Commissioner of Emergency Management and the Chief, Emergency Management Ontario during an emergency; and
- (b) the roles and responsibilities of each minister of the Crown presiding over a ministry of the Government of Ontario during an emergency.

Publication

(3) The Solicitor General shall make the framework available to the public on a website of the Government of Ontario or in such other manner as may be prescribed.

Compliance

(4) The Solicitor General, Commissioner of Emergency Management and Chief, Emergency Management Ontario and any other prescribed ministers of the Crown presiding over a ministry of the Government of Ontario shall operate in compliance with the framework.

6 The definitions of “Commissioner of Emergency Management” and “necessary goods, services and resources” in section 7 of the Act are repealed.

7 Section 9 of the Act is amended by striking out “section 3, 6 or 8” in the portion before clause (a) and substituting “section 3, 6, 6.0.1 or 8”.

8 Section 10 of the Act is amended by striking out “section 3, 6 or 8” and substituting “section 3, 6, 6.0.1 or 8”.

9 The Act is amended by adding the following section:

Regulations, LGIC

14.1 The Lieutenant Governor in Council may make regulations prescribing anything that, under this Act, may or must be prescribed or done by regulation.

Commencement

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

SCHEDULE 2
MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS ACT

1 Clause 4 (2) (b) of the *Ministry of Agriculture, Food and Rural Affairs Act* is amended by adding “including but not limited to policies, recommendations, advice, coordination and assistance respecting a safe and stable food supply” at the end.

2 The Act is amended by adding the following section:

Duty to report on food supply

4.2 The Minister shall report on the safety and stability of Ontario’s food supply.

Commencement

3 This Schedule comes into force on the day the *Pandemic and Emergency Preparedness Act, 2022* receives Royal Assent.

**SCHEDULE 3
ONTARIO FOOD TERMINAL ACT**

1 The *Ontario Food Terminal Act* is amended by adding the following section:

Contingency plan for emergency situations

4.1 (1) The Board shall develop and maintain a contingency plan with respect to the carrying out of its operations and undertakings during emergency situations that may put the continuity of those operations and undertakings at risk.

Same

(2) The contingency plan must include a description of how all or part of the Board's operations could be carried out temporarily, for no longer than 30 days at a time, from a location other than the Terminal's current location in the event of such an emergency situation.

Same

(3) The Minister may direct the Board to implement all or part of its contingency plan if the Minister is of the opinion that such an emergency situation exists.

Commencement

2 This Schedule comes into force on the day the *Pandemic and Emergency Preparedness Act, 2022* receives Royal Assent.

SCHEDULE 4
PERSONAL HEALTH INFORMATION PROTECTION ACT, 2004

1 Subsection 52 (1.1) of the *Personal Health Information Protection Act, 2004* is repealed and the following substituted:

Format of records

(1.1) The right to access a record of personal health information includes the right to access the record in,

- (a) an electronic format that meets the prescribed requirements, subject to any restrictions, additional requirements or exceptions that may be prescribed; or
- (b) an electronic format specified by the Agency in accordance with the regulations.

2 (1) Subsection 73 (1) of the Act is amended by adding the following clause:

(m.0.1) authorizing the Agency to specify electronic formats for the purposes of subsection 52 (1.1), which may include requirements, conditions, restrictions or exceptions that apply to the authorization;

(2) Clause 73 (1) (n.3) of the Act is repealed and the following substituted:

(n.3) governing,

- (i) under what circumstances a person or entity, or group of persons or entities, described in subsection (1.1) may collect, use and disclose personal health information,
- (ii) conditions that apply to the collection, use and disclosure of personal health information by a person, entity or group mentioned in subclause (i),
- (iii) security requirements, records retention, information practices and rules for access and correction for personal health information held by a person, entity or group mentioned in subclause (i),
- (iv) disclosures of personal health information that may be made by a health information custodian or other person to a person, entity or group mentioned in subclause (i),
- (v) any requirements with respect to the collection, use and disclosure of personal health information that a person, entity or group must comply with if they used to fall under the description in subsection (1.1) but no longer fall under that description;

(3) Section 73 of the Act is amended by adding the following subsection:

Application

(1.1) Subclause (1) (n.3) (i) applies with respect to the following persons or entities, or groups of persons or entities, that comply with the prescribed conditions, if any:

1. Persons or entities, or groups of persons or entities, designated under subsection 29 (1) of the *Connecting Care Act, 2019* as an Ontario Health Team.
2. Persons or entities, or groups of persons or entities, that have not yet been designated as an Ontario Health Team under subsection 29 (1) of the *Connecting Care Act, 2019* but that have received written authorization from the Minister approving them to,
 - i. use the title “Ontario Health Team”, and
 - ii. collect, use and disclose personal health information in accordance with the conditions and other requirements made under clause (1) (n.3).

Commencement

3 This Schedule comes into force on the day the *Pandemic and Emergency Preparedness Act, 2022* receives Royal Assent.

SCHEDULE 5
PERSONAL PROTECTIVE EQUIPMENT SUPPLY AND PRODUCTION ACT, 2022

Interpretation

1 In this Act,

“critical supplies and equipment” means supplies and equipment that are not worn, are primarily used to detect, prevent and minimize exposure to hazards that may cause injuries or illness and that are prescribed for the purposes of this definition; (“fournitures et matériel essentiels”)

“government entity” means,

- (a) the Crown in right of Ontario, including any ministry of the Government of Ontario,
- (b) a public body within the meaning of the *Public Service of Ontario Act, 2006*,
- (c) the Independent Electricity System Operator, and
- (d) Ontario Power Generation Inc. and each of its subsidiaries; (“entité gouvernementale”)

“Minister” means the Minister of Government and Consumer Services or such other member of the Executive Council as may be assigned administration of this Act under the *Executive Council Act*; (“ministre”)

“Ministry” means the ministry of the Minister; (“ministère”)

“personal protective equipment” means equipment used or worn to minimize exposure to hazards that may cause injury or illness and that is prescribed for the purpose of this definition; (“équipement de protection individuelle”)

“prescribed” means prescribed by regulation; (“prescrit”)

“public sector entity” means an entity in the public sector that is prescribed for the purposes of this definition; (“entité du secteur public”)

“regulation” means a regulation under this Act; (“règlement”)

“supply chain management” means the broad range of activities related to the procurement of personal protective equipment and critical supplies and equipment, including,

- (a) planning and sourcing,
- (b) setting standards and specifications,
- (c) conducting market research,
- (d) developing procurement policy,
- (e) determining procurement methodologies,
- (f) coordinating and conducting procurements,
- (g) controlling logistics and inventory,
- (h) managing information systems,
- (i) coordinating the actions of government entities, public sector entities and other entities and furthering those entities’ collaboration,
- (j) overseeing resources,
- (k) arranging project financing,
- (l) managing contracts and relationships,
- (m) receiving and responding to complaints,
- (n) disposing of surplus assets, and
- (o) carrying out a prescribed activity. (“gestion de la chaîne d’approvisionnement”)

Requirement to maintain supply of PPE and CSE

2 (1) The Minister shall, in accordance with such requirements as may be prescribed, maintain a supply of personal protective equipment and critical supplies and equipment.

Prescribed requirements

(2) The prescribed requirements referred to in subsection (1) may, for example, relate to,

- (a) the quantity of personal protective equipment or critical supplies and equipment that must be maintained;

- (b) the quality, standards or specifications that the personal protective equipment or critical supplies and equipment must satisfy;
- (c) the reliability of the supply of personal protective equipment or critical supplies and equipment that must be maintained; or
- (d) the security of the supply of personal protective equipment or critical supplies and equipment that is obtained.

Supply chain management, government entities and public sector entities

3 (1) The Minister may provide notice to a government entity or a public sector entity stating that the Minister will provide or support supply chain management in respect of personal protective equipment and critical supplies and equipment, on behalf of the entity on a specified date.

Government entity to obtain supply chain management

(2) An entity that receives a notice described in subsection (1) shall obtain the supply chain management from the Minister on and after the date specified in the notice.

Notice

(3) The notice given under subsection (1) shall specify,

- (a) the personal protective equipment or critical supplies and equipment to which the supply chain management will relate; and
- (b) such arrangements to transition from the entity procuring its own personal protective equipment or critical supplies and equipment to obtaining supply chain management from the Minister.

Same, publicly accessible

(4) The Minister shall ensure that every notice given under subsection (1) is publicly accessible on a Government of Ontario website.

Supply chain management, other entities

4 The Minister may provide or support supply chain management in respect of personal protective equipment and critical supplies and equipment on behalf of an entity that is not a government entity or public sector entity if,

- (a) the Minister determines that doing so would not negatively impact the provision or support of supply chain management for government entities or public sector entities; and
- (b) the Minister and the entity enter into an agreement with respect to supply chain management.

Supply chain management, individuals

5 The Minister may provide or support supply chain management in respect of personal protective equipment and critical supplies and equipment on behalf of an individual if the Minister determines that doing so would not negatively impact the provision or support of supply chain management for government entities or public sector entities.

Policies re prioritization

6 (1) The Minister may establish policies governing how the Minister will prioritize the supply of personal protective equipment and critical supplies and equipment among government entities, public sector entities, other entities and individuals.

Publication of policies

(2) Any policy made under subsection (1) shall be made available to the public on a website of the Government of Ontario.

Vendor performance standards and practices

7 An entity for whom supply chain management is provided or supported under section 3 or 4 shall comply with regulations requiring it to implement specified vendor performance standards and practices.

Reporting requirements

8 An entity for whom supply chain management is provided or supported under section 3 or 4 shall comply with such reporting requirements as required by the regulations.

Deemed part of agreement

9 Every obligation of a public sector entity under this Act is deemed to be an obligation it is required to comply with under the terms of every agreement or other funding arrangement between the entity and the Crown in right of Ontario or between the entity and an agency of the Crown in right of Ontario.

Supply chain management contractors

10 A government entity or public sector entity that contracts with a third party supply chain manager shall ensure that the contract requires the supply chain manager to comply with any requirement imposed under this Act on the government entity or public sector entity, with any necessary modifications.

Annual report

11 (1) The Minister shall publish an annual report on,

- (a) the supply of personal protective equipment and critical supplies and equipment that the Minister maintains under section 2; and
- (b) the Minister's supply chain management activities in respect of personal protective equipment and critical supplies and equipment in the previous year.

Prescribed information

(2) The annual report shall include,

- (a) information about the quantity and origin of production of the personal protective equipment and critical supplies and equipment that the Minister maintains under section 2; and
- (b) such other information as may be prescribed.

Delegation

12 (1) The Minister may, in writing, delegate a power or duty granted or vested in the Minister under this Act to the Deputy Minister of the Ministry, any public servant who works in the Ministry or to any Crown agency for which the Minister is responsible, subject to the terms and conditions that the Minister sets out in the delegation.

Object and duty

(2) If the Minister delegates a power or duty under subsection (1) to a Crown agent that is a corporation, it is an object and duty of the corporation to carry out that power or duty.

Commercial information, etc.

13 A disclosure of information in compliance with the regulations referred to in sections 7 and 8 is deemed not to contravene the provisions of an agreement that purports to restrict or prohibit the disclosure of information.

Fees

14 The Minister may establish and charge fees to recover the costs of any goods or services that are provided by the Minister under this Act, including any costs incurred in providing or supporting supply chain management for an entity.

Reselling personal protective equipment or critical supplies and equipment

15 No person shall sell or offer to sell any personal protective equipment or critical supplies and equipment that the person obtained,

- (a) as a result of supply chain management provided by the Minister; and
- (b) without charge or payment of a fee.

Offence

16 (1) A person who contravenes section 15 is guilty of an offence and on conviction is liable,

- (a) in the case of an individual, to a fine of not less than \$100 and not more than \$20,000; and
- (b) in the case of a corporation, to a fine of not less than \$20,000 and not more than \$250,000.

Limitation period

(2) No prosecution shall be commenced under this section more than two years after the date on which the offence was committed or alleged to have been committed.

Regulations

17 The Lieutenant Governor in Council may make regulations governing anything that, in this Act, is required or permitted to be prescribed or that is required or permitted to be done by, or in accordance with, the regulations.

Consequential amendment

18 (1) *The Supply Chain Management Act (Government, Broader Public Sector and Health Sector Entities), 2019 is amended by adding the following section:*

Non-application re personal protective equipment and critical supplies and equipment

2.1 Supply chain management under this Act does not include activities related to the procurement of personal protective equipment or critical supplies and equipment.

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

Creation of corporation

(1) The Lieutenant Governor in Council may, by regulation, incorporate one or more corporations without share capital that have as their object and duty,

- (a) providing or supporting supply chain management on behalf of government entities, broader public sector entities or health sector entities in accordance with this Act and the regulations;
- (b) any objects or duties as may be delegated to the corporation under section 12 of the *Personal Protective Equipment Supply and Production Act, 2022*; and
- (c) such other objects or duties as may be prescribed.

Commencement

19 The Act set out in this Schedule comes into force on a day to be named by proclamation of the Lieutenant Governor.

Short title

20 The short title of the Act set out in this Schedule is the *Personal Protective Equipment Supply and Production Act, 2022*.

**SCHEDULE 6
REGULATED HEALTH PROFESSIONS ACT, 1991**

1 Subsection 1 (1) of the *Regulated Health Professions Act, 1991* is amended by adding the following definition:

“Canadian experience” has the meaning prescribed by the regulations; (“expérience canadienne”)

2 (1) Subsection 43 (1) of the Act is amended by adding the following clause:

(0.a) prescribing the meaning of “Canadian experience” for the purposes of this Act;

(2) Clause 43 (1) (h.0.1) of the Act is repealed and the following substituted:

(h.0.1) establishing and governing requirements with respect to the amount of time in which Colleges must make decisions under subsections 15 (1) and (4), 18 (2) and (4) and 19 (6) and (8) of the Code;

(3) Subsection 43 (1) of the Act is amended by adding the following clauses:

(k.1) establishing and governing English or French language proficiency requirements with which Colleges are required to comply, including prescribing what constitutes an English or French language proficiency testing requirement for the purposes of these requirements;

(k.2) establishing and governing exemptions from the restriction on requiring Canadian experience in section 16.2 of the Code;

(k.3) establishing and governing requirements for emergency classes of registration that are required by section 16.3 of the Code;

3 (1) Schedule 2 to the Act is amended by adding the following section:

Language proficiency requirements

16.1 A College shall ensure that it complies with any regulations made under clause 43 (1) (k.1) of the *Regulated Health Professions Act, 1991* respecting its English or French language proficiency requirements.

(2) Schedule 2 to the Act is amended by adding the following section:

Canadian experience requirements

16.2 A College shall not require as a qualification for registration that a person’s experience be Canadian experience unless an exemption is provided for in any regulations made under clause 43 (1) (k.2) of the *Regulated Health Professions Act, 1991*.

(3) Schedule 2 to the Act is amended by adding the following section:

Emergency classes of registration

16.3 (1) The Council shall make regulations under clause 95 (1) (b) establishing an emergency class of registration.

(2) The emergency class of registration required by subsection (1) must meet the requirements in any regulation made under clause 43 (1) (k.3) of the *Regulated Health Professions Act, 1991*.

Commencement

4 (1) Except as otherwise provided in this section, this Schedule comes into force on the day the *Pandemic and Emergency Preparedness Act, 2022* receives Royal Assent.

(2) Section 3 comes into force on a day to be named by proclamation of the Lieutenant Governor.

SCHEDULE 7
SUPPORTING RETENTION IN PUBLIC SERVICES ACT, 2022

Interpretation

1 In this Act,

“prescribed” means prescribed by the regulations; (“prescrit”)

“regulations” means regulations made under this Act. (“règlements”)

Funding

2 (1) For the purpose of supporting the provision of public services, a Minister may provide funding for employers to enhance the compensation paid to employees of the employer.

Eligibility

(2) Eligibility for funding under this Act shall be determined in accordance with compensation enhancement programs set out in the regulations.

Compensation enhancement programs

3 (1) A compensation enhancement program may provide for temporary or permanent compensation enhancements and may include different eligibility rules for different classes of employee.

Direct or indirect funding

(2) A compensation enhancement program may provide for funding to be provided to an employer directly or indirectly through a third party.

Use of funding

4 (1) Funding received by an employer under this Act shall be used to enhance the compensation paid to employees of the employer in accordance with the terms of the compensation enhancement program under which the funding is provided.

Same, third parties

(2) Funding received by a third party under this Act shall be provided to an employer in accordance with the terms of the compensation enhancement program under which the funding is provided.

Rules re: labour matters

5 (1) Despite any other Act and despite any regulation, order, policy, arrangement or agreement, including a collective agreement, the following rules apply with respect to prescribed compensation enhancement programs:

1. An agreement between an employer and a trade union or a bargaining agent regarding the payment of compensation enhancements is not required for the employer to make payments under the compensation enhancement program to eligible employees.
2. No employer, tribunal, arbitrator, arbitration board, officer or court may expand eligibility for or require the payment of a compensation enhancement under the compensation enhancement program to an employee who is not eligible under the terms of the program.

Complaints

(2) No complaint alleging a contravention of the *Labour Relations Act, 1995* or the *Crown Employees Collective Bargaining Act, 1993* shall be made in respect of the payment of compensation under a prescribed compensation enhancement program.

Pay Equity Act—permanent compensation enhancement programs

6 (1) This section applies if,

- (a) funding is provided under a prescribed compensation enhancement program that provides for a permanent compensation enhancement for employees;
- (b) the employer of the employees is an employer to which the *Pay Equity Act* applies; and
- (c) a pay equity gap exists in connection with job classes or positions of the employer’s employees.

Same

(2) If funding provided under the compensation enhancement program results in an increase in compensation, within the meaning of the *Pay Equity Act*, to an employee’s job class or position, the increase is deemed to be made for the purposes of achieving pay equity in respect of the employee’s job class or position, maintaining pay equity in respect of the employee’s job class or position, or both, under that Act.

Same

(3) If an increase in compensation described in subsection (2) exceeds the amount required to achieve pay equity in respect of the employee's job class or position, to maintain pay equity in respect of the employee's job class or position, or both, subsection (2) does not apply in respect of the excess amount.

Protecting a Sustainable Public Sector for Future Generations Act, 2019

7 (1) This section applies with respect to employees of employers to which the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* applies.

Same

(2) Despite the *Protecting a Sustainable Public Sector for Future Generations Act, 2019*, the amounts received by an employee under a prescribed compensation enhancement program are deemed not to be an increase to a salary rate, an increase to an existing compensation entitlement or a new compensation entitlement for the purposes of that Act.

No cause of action re: enactment of Act, etc.

8 (1) No cause of action arises against the Crown or any of the Crown's current or former ministers, agents, appointees or employees,

- (a) as a direct or indirect result of the enactment or amendment of any provision of this Act;
- (b) as a direct or indirect result of the making, amending or revoking of any provision of a regulation or of a compensation enhancement program incorporated by reference in a regulation; or
- (c) as a direct or indirect result of anything done or not done in order to comply with this Act or the regulations.

Proceedings barred

(2) No proceeding, including but not limited to any proceeding in contract, restitution, unjust enrichment, tort, misfeasance, bad faith, trust, fiduciary obligation or otherwise, that is directly or indirectly based on or related to anything referred to in subsection (1) may be brought or maintained against a person referred to in that subsection.

Application

(3) Without limiting the generality of subsection (2), that subsection applies to an action or other proceeding claiming any remedy or relief, including specific performance, injunction, declaratory relief or any form of damages or any other remedy or relief.

No deemed employment relationship

9 Nothing in this Act changes the status of an employer of employees and the application of this Act does not create an employment relationship between the Crown and employees of employers or a deemed employment relationship between them for the purposes of this or any other Act or any law.

Act binds Crown

10 This Act binds the Crown.

Regulations

11 (1) The Lieutenant Governor in Council may make regulations for carrying out the purposes and provisions of this Act.

Compensation enhancement programs

(2) The Lieutenant Governor in Council may make regulations prescribing compensation enhancement programs, including their eligibility requirements and their terms.

Same

(3) A regulation may set out the eligibility requirements and terms of a compensation enhancement program or may incorporate them by reference from a document as the document may be amended from time to time.

Temporary or permanent

(4) A regulation shall specify whether the program provides for a temporary compensation enhancement or a permanent compensation enhancement.

Commencement

12 The Act set out in this Schedule comes into force on the day the *Pandemic and Emergency Preparedness Act, 2022* receives Royal Assent.

Short title

13 The short title of the Act set out in this Schedule is the *Supporting Retention in Public Services Act, 2022*.