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Province of Prince Edward Island
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BILL NO. 6

Public Health Act

Honourable Doug W. Currie
Minister of Health and Wellness

GOVERNMENT BILL

MICHAEL D. FAGAN
Queen’s Printer
Charlottetown, Prince Edward Island
**Bill Number:** 6

**Title:** PUBLIC HEALTH ACT

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**Noted:**

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_____ COMMITTEE CLERK

_____ CHAIRMAN, IN COMMITTEE
BILL NO. 6  

Public Health Act

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

INTERPRETATION

1. In this Act,

(a) “Chief Public Health Officer” means the Chief Public Health Officer appointed under section 4;

(b) “communicable disease” means an illness that is caused by the transmission of an infectious agent or its toxic products, directly or indirectly, from an infected person, animal, plant, object or the environment and includes those diseases prescribed by regulation;

(c) “contact” means a person who has or may have been in contact with another person who has or had a communicable disease while that other person was or may have been in an infectious state;

(d) “Deputy Chief Public Health Officer” means a Deputy Chief Public Health Officer appointed under section 4;

(e) “environmental health officer” means an environmental health officer appointed under section 6;

(f) “examination” means the taking of a medical history, a physical examination of the human body, the taking of specimens of bodily fluids for laboratory tests, the use of diagnostic imaging or the performing of diagnostic procedures that may be required to determine the existence of a communicable disease or the agent of a communicable disease;

(g) “food” includes food or drink, including milk, potable water and ice, destined for human consumption and includes an ingredient of food or drink destined for human consumption;

(h) “food premises” means a premises where food is manufactured, processed, prepared, packaged, stored, handled, distributed, transported, served, offered for sale or sold, and includes a food vending machine and an abattoir but does not include a part of the premises that is a dwelling or premises exempted by the regulations;

(i) “health facility” means a health facility as defined in clause 1(c) of the Health Services Act R.S.P.E.I. 1988, Cap. H-1.6;
(j) “health hazard” means a health hazard as set out in subsection 22(1);

(k) “institution” means
   (i) a correctional centre as defined in clause 1(c) of the "Correctional Services Act" R.S.P.E.I. 1988, C-26.1,
   (ii) a nursing home as defined in clause 1(j) of "Community Care Facilities and Nursing Home Act" R.S.P.E.I. 1988, C-13, and
   (iii) any other place prescribed by regulation;

(l) “medical practitioner” means a medical practitioner as defined in clause 1(m) of the "Medical Act" R.S.P.E.I. 1988, Cap. M-5;

(m) “milk” means a normal lacteal secretion free of colostrum obtained from the mammary glands of cows, goats, sheep or other species prescribed in the regulations that is destined for human consumption;

(n) “milk processing plant” means a plant licensed under section 11 in which milk or milk products are processed or handled, including a pasteurization plant or cheese factory, and every building, machine, apparatus, equipment and appurtenance employed in or necessary for storing, cooling, processing, packaging or handling milk or milk products that forms a part of or is connected with the plant;

(o) “milk product” means milk, cream, butter, cheese, condensed milk, evaporated milk, milk powder, ice cream, sherbet, or any other product designated in the regulations as a milk product;

(p) “Minister” means the Minister of Health and Wellness and includes persons designated by the Minister to act on the Minister’s behalf;

(q) “notifiable disease or condition” means a disease or other health condition prescribed by regulation or declared in an order of the Minister to be a notifiable disease or condition;

(r) “nurse practitioner” means a nurse practitioner as defined in clause 1(n) of the "Registered Nurses Act" R.S.P.E.I. 1988, Cap. R-8.1;

(s) “occupier” means a person who
   (i) owns or is in physical possession of premises, or
   (ii) has responsibility for and control over the condition of the premises or the activities carried on there, or control over persons allowed to enter the premises;

(t) “potable water” means water that is destined for human consumption and that meets the requirements established in the regulations;
(u) “premises” includes
   (i) lands and structures, or either of them,
   (ii) bodies of water,
   (iii) trailers and portable structures designed or used for
        residence, business or shelter, and
   (iv) ships and vessels, motorized vehicles and aircraft, and any
        other motorized or non-motorized conveyance;

(v) “public health emergency” means an occurrence or imminent
    threat of a health hazard or disease that presents a significant risk to
    the public health;

(w) “public health nurse” means a public health nurse appointed or
    designated under section 7;

(x) “public health official” means the Chief Public Health Officer, a
    Deputy Chief Public Health Officer or an environmental health
    officer;

(y) “radiation” means ionizing or non-ionizing energy in the form of
    atomic particles or electromagnetic or acoustic waves, and includes
    ultraviolet light used in tanning equipment;

(z) “registered mail” means registered mail as defined in the

(aa) “registered nurse” means a registered nurse as defined in the

(bb) “tanning equipment” means lamps, beds or other equipment
    that use ultraviolet light to induce skin tanning or other cosmetic
    effects through the irradiation of any part of the living human body;

(cc) “tanning facility” means a premises or business that provides
    customers with access to tanning equipment in exchange for
    compensation, but does not include any part of a premises that is
    used exclusively as a dwelling.

PART I

ADMINISTRATION AND ENFORCEMENT

2. The Minister is charged with the administration of this Act and may
   designate persons to act on the Minister’s behalf.

3. (1) The Minister may protect the health and well-being of the people
   of Prince Edward Island by any means, and may
   (a) establish goals for the health of the population;
   (b) pursue policies that promote and support the health of the
       population;
(c) facilitate public awareness of health issues and changing health needs;
(d) monitor and evaluate the efficiency of programs and services and their effectiveness in achieving goals established for the health of the population;
(e) coordinate measures for the protection of public health and the distribution, supervision and evaluation of health services;
(f) collect and assess data on the causes of disease, injury, morbidity and mortality in the province;
(g) take such measures as the Minister considers necessary for the prevention, interception and suppression of notifiable diseases and conditions, communicable diseases and other problems affecting the health of the public; and
(h) facilitate the implementation of programs for education, training, research and information in the fields of prevention, diagnosis and treatment of disease, rehabilitation of the sick, injured and handicapped, and public health generally.

(2) For the purposes of administering and enforcing this Act and the regulations, the Minister may enter into agreements with the Government of Canada or its agencies, the government of another province or territory of Canada or its agencies or any other person or organization.

(3) The Minister may enter into agreements with any person for the purpose of the organization and delivery of public health programs and services, the prevention of diseases and injuries, and the promotion and protection of the health of the people of Prince Edward Island or any group of them.

Appointment of Public Health Officials

4. The Minister shall appoint a medical practitioner as Chief Public Health Officer and may appoint one or more medical practitioners as Deputy Chief Public Health Officers.

5. (1) The Chief Public Health Officer may exercise the powers and shall perform the duties assigned to the Chief Public Health Officer under this Act and the regulations and such other duties as may be assigned by the Minister.

(2) A Deputy Chief Public Health Officer may exercise the powers and shall perform the duties of the Chief Public Health Officer
   (a) as directed by the Minister or the Chief Public Health Officer; or
   (b) if the Chief Public Health Officer is absent or unable to act or the office of the Chief Public Health Officer is vacant.
(3) The Chief Public Health Officer may, in writing, designate persons
to exercise the powers and perform the duties of the Chief Public Health
Officer under this Act and the regulations.

6. The Minister may appoint one or more persons who hold a Certificate
in Public Health Inspection (Canada) as environmental health officers
who shall perform the duties assigned to public health officials under this
Act and the regulations and such other duties as may be assigned by the
Minister.

7. The Minister may appoint one or more registered nurses as public
health nurses who shall perform the duties assigned to a public health
nurse under this Act and the regulations and such other duties as may be
assigned by the Minister.

8. The Minister shall issue to every public health official a certificate of
appointment and every public health official in the exercise of his or her
authority or the execution of his or her duties under this Act or the
regulations shall produce his or her certificate of appointment upon
request.

PART II
PUBLIC HEALTH PROTECTION

9. No person shall sell or offer for sale any food that is unfit for human
consumption by reason of disease, adulteration, impurity, or other cause.

Food Premises

10. (1) A person may apply to the Minister in accordance with the
regulations for a license to operate a food premises.

(2) No person shall operate a food premises unless the person holds a
valid license to do so issued under subsection (3).

(3) The Minister may issue a license for a food premises to an
applicant where the Minister is satisfied that
(a) the applicant and the proposed food premises meet the
requirements of sections 11 to 13 and the regulations; and
(b) the applicant has paid the prescribed fee.

11. (1) A person who holds a license to operate a food premises shall
maintain and operate the food premises in accordance with the standards
and requirements prescribed in the regulations.

(2) A license to operate a food premises is subject to
(a) the terms and conditions prescribed by the regulations;
(b) training requirements as set out in the regulations; and
(c) those additional terms and conditions that the Minister considers
appropriate and specifies in the license.

(3) A person who holds a license to operate a food premises shall
provide a public health official with the information that the public
health official requests in respect of the manufacturing, processing,
preparation, packaging, storage, handling, display, transportation,
serving or sale of any food on or in the food premises and the
distribution of food from the food premises.

(4) A person who holds a license to operate a food premises shall keep
the records prescribed by the regulations in respect of the manufacturing,
processing, preparation, packaging, storage, handling, transportation,
serving and sale of any food on or in the food premises and the
distribution of food from the food premises, with the detail and for the
length of time as prescribed.

(5) A person who holds a license to operate a food premises shall make the reports and returns prescribed by the regulations.

12. A person who holds a license to operate a food premises shall ensure
that food that is manufactured, processed, prepared, packaged, stored or
handled on or in the premises is manufactured, processed, prepared,
packaged, stored or handled under sanitary conditions.

13. A person employed to work with food on or in a food premises shall
comply with the standards and requirements prescribed by the
regulations.

Milk and Milk Products

14. (1) A person may apply to the Minister in accordance with the
regulations for a license to operate a milk processing plant.

(2) This section applies to milk processing plants
(a) whose products are sold within the province; and
(b) which are not licensed, registered or inspected by a department
or agency of the Government of Canada.

(3) The Minister may issue a license for a milk processing plant to an
applicant where the Minister is satisfied that
(a) the applicant and the proposed milk processing plant meet the
requirements set out in the regulations; and
(b) the applicant has paid the prescribed fee.

(4) The Minister may at any time impose any terms or conditions on a
license issued under this section that the Minister considers necessary.
(5) A license to operate a milk processing plant shall specify the kinds of milk or milk products that the holder of the license is authorized to produce in the milk processing plant.

(6) No person shall process milk, engage in the production of milk products or operate a milk processing plant unless that person holds a valid license to do so issued by the Minister under subsection (4).

(7) No person shall produce unpasteurized milk products in a milk processing plant licensed under this Act.

(8) No person shall sell unpasteurized milk or unpasteurized milk products except
   (a) to the holder of a license issued under subsection (3) for a milk processing plant;
   (b) to the operator of a milk processing plant licensed, registered or inspected by a department or agency of the Government of Canada; or
   (c) to the Dairy Farmers of Prince Edward Island.

(9) No person shall process or manufacture any product other than milk and the milk products specified in the person’s license in a milk processing plant licensed under this Act.

(10) No person shall add any substance, matter or thing to milk or milk products except in accordance with the regulations.

15. The Chief Public Health Officer may at any time require that samples of milk or milk products be tested in accordance with the regulations at the expense of the owner of the milk or milk products to ensure compliance with the standards prescribed or adopted in the regulations.

16. No person shall sell or keep for sale, distribute or transport, except under an order of the Chief Public Health Officer, any processed milk or milk products that do not meet the applicable standards prescribed or adopted in the regulations.

Slaughterhouses

17. (1) A person may apply to the Minister in accordance with the regulations for a license to operate a slaughterhouse that meets the conditions of subsection (2).

(2) This section applies to slaughterhouses
   (a) whose products are sold within the province; and
   (b) which are not licensed, registered or inspected by a department or agency of the Government of Canada.
(3) The Minister may issue a license for a slaughterhouse to an applicant where the Minister is satisfied that
   (a) the slaughterhouse meets the requirements set out in the regulations; and
   (b) the applicant has paid the prescribed fee.

(4) The Minister may at any time impose any terms or conditions on a license issued under this section that the Minister considers necessary.

(5) A license to operate a slaughterhouse shall specify the kinds of animals that the holder of the license is authorized to slaughter in the slaughterhouse.

(6) No person shall operate a slaughterhouse unless that person holds a valid license to do so issued by the Minister under subsection (3).

### Tanning Facilities

18. (1) No person shall market, sell or permit access to tanning equipment in a tanning facility to a person who is under the age of 18 years.

   (2) No person shall market, sell or permit access to tanning equipment in a tanning facility to a person who appears to be under the age of 18 years unless that person first produces, as proof that he or she is 18 years of age or older, a prescribed form of identification that shows the person’s age and that contains a photograph of the person.

19. Subsections 18(1) and (2) do not affect the right of a medical practitioner or a nurse practitioner to prescribe or provide ultraviolet light treatments to any person for medical purposes.

20. (1) The Minister shall establish and maintain a registry containing the information required by the regulations in respect of tanning facilities and the commercial use of tanning equipment.

   (2) An owner of a tanning facility shall register the particulars required by the regulations in respect of the facility and its operation and shall pay the prescribed registration fee.

21. An owner of a tanning facility shall ensure that signs are displayed
   (a) in the form and manner; and
   (b) showing the information relating to the sale of access to tanning equipment and the effect of the use of tanning equipment on health as required by the regulations.
Health Hazards

22. (1) A health hazard is
(a) a condition, a thing or an activity that
   (i) endangers, or is likely to endanger, public health, or
   (ii) interferes, or is likely to interfere, with the suppression of
       infectious agents; or
(b) a prescribed condition, thing or activity, including a
   prescribed condition, thing or activity that
   (i) is associated with injury or illness, or
   (ii) fails to meet a prescribed standard in relation to health,
       injury, or illness.

(2) A person who believes on reasonable and probable grounds that a
health hazard exists and who believes that the health hazard has not been
reported to a public health official shall notify a public health official of
the health hazard immediately.

23. (1) In accordance with section 59, where a public health official
believes on reasonable and probable grounds that a health hazard may
exist at any premises, the public health official
(a) shall investigate or cause an investigation to be carried out to
determine whether the health hazard exists and report the results to
the Chief Public Health Officer; and
(b) may issue a direction in the form required by the Chief Public
Health Officer in respect of any health hazard found to exist to
   (i) the owner or occupier of the premises where the health hazard
       is located,
   (ii) the person who owns or appears to be responsible for the
       health hazard, or
   (iii) a person who is engaged in or administers an enterprise or
       activity in or on the premises.

(2) A direction issued by a public health official under subsection (1)
shall contain
(a) the reasons for the direction;
(b) the remedial action to be taken and the time within which that
    action shall be taken; and
(c) a statement advising that where the direction is not followed, the
    Chief Public Health Officer may issue an order under section 24 in
    respect of the health hazard.

Order

24. (1) Where the Chief Public Health Officer has reasonable and
probable grounds to believe that a health hazard exists at a premises, and
that the criteria set out in subsection (2) are satisfied, the Chief Public
Health Officer may issue an order to prevent, decrease the effect of or eliminate the health hazard, including but not limited to an order
(a) to vacate the premises;
(b) to close the premises or a specific part of the premises or restrict access to the premises;
(c) to placard the premises to give notice of an order in respect of closure or restriction of access to the premises;
(d) to require the performance of work specified in the order in, on, or about the premises;
(e) to require the removal from or around the premises anything that the order states is a health hazard;
(f) to isolate or detain anything specified in the order in accordance with such terms and conditions as are specified in the order;
(g) to clean or disinfect anything specified in the order;
(h) to destroy the matter or thing specified in the order;
(i) to prohibit or regulate the manufacturing, processing, preparation, storage, handling, display, transportation, sale, offering for sale or distribution of any food or thing; or
(j) to prohibit or regulate an activity or the use of any premises or thing.

(2) The criteria to be satisfied for the purposes of subsection (1) are
(a) the remedial action specified in the order is necessary to eliminate, reduce or control the danger or injury to public health; and
(b) less intrusive means of dealing with the matter are, in the opinion of the Chief Public Health Officer, not sufficiently effective.

(3) An order under this section that requires the closing of premises is an order
(a) to shut the premises so as to prevent the entrance or access to premises by any person; and
(b) to suspend the operation of any enterprise or activity on or in the premises,
except by the persons or for the purposes specified in the order.

(4) An order under this section may be directed to
(a) the owner or occupier of the premises to which the order relates;
(b) the person who owns or appears to be responsible for the health hazard; or
(c) a person who is engaged in or administers an enterprise or activity in or on the premises.

(5) Subject to subsection (6), an order made under this section shall be in writing and shall contain
(a) the reasons for the order;
(b) the remedial action to be taken and time within which that action shall be taken; and
(c) a statement advising that where an order is not followed, the Chief Public Health Officer may take action under section 25 or apply to the court under section 31 to enforce the order and for costs.

(6) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the hazard to the health of any person, the Chief Public Health Officer may issue an order orally containing the information in clauses (5)(a) to (c).

(7) Where an order is issued orally under this section, the order shall be put into writing and served on each person to whom the order was directed within seventy-two hours after the making of the oral order, but a failure to comply with this subsection does not invalidate the order.

(8) Nothing in Part III prevents the making of an order under this section in relation to a premises, substance, thing, plant or animal, or a solid, liquid, gas or any combination of them, that is or may be infected with a notifiable disease or condition or a communicable disease or that is or may be contaminated with an agent of a notifiable disease or condition or a communicable disease, as the case may be.

(9) A person to whom an order is directed under this section shall comply with the order.

25. The Chief Public Health Officer may, by means of an order under section 24, in accordance with the regulations, (a) prohibit the sale of food, milk or milk product produced, processed, sold or kept for sale in, or distributed or transported to, any premises
   (i) in which, on inspection, conditions are found to be unsatisfactory, unsanitary or a contravention of an applicable standard prescribed or adopted in the regulations, or
   (ii) where inspection is refused;
(b) prohibit the sale of food, milk or milk product produced, processed, transported, distributed, received, handled or stored in contravention of the regulations; and
(c) order the measures, including seizure or destruction, to be taken, in accordance with the regulations, respecting any food, milk or milk product that
   (i) is, or is suspected on reasonable and probable grounds of being, injurious to health, or
   (ii) is suspected on reasonable and probable grounds of
       (A) having been produced or processed in contravention of this Act or the regulations, or
(B) failing to meet the applicable standards prescribed or adopted in the regulations.

26. (1) The Chief Public Health Officer may, by means of an order under section 24, in accordance with the regulations,
(a) order the recall of any food, milk or milk product that has been distributed for sale but is suspected on reasonable and probable grounds
   (i) of being injurious to health, or
   (ii) of failing to meet the applicable standards prescribed or adopted in the regulations; and
(b) order the measures, including destruction, to be taken, in accordance with the regulations, respecting that food, milk or milk product.

(2) A person to whom an order is directed under this section shall comply with the order.

27. (1) It is sufficient in an order under this section to direct the order to a person or persons described in the order and an order under this section is not invalid by reason only of the fact that a person to whom the order is directed is not named in the order.

(2) An order made under this section may require the person to whom the order is directed to communicate the contents of the order to other persons as specified in the order.

(3) If it is not practicable to serve a copy of an order directed to a class of persons on each member of the class, the Chief Public Health Officer may instead provide public notice of the order by any means of communication that the Chief Public Health Officer considers will make it known to the majority of the class.

(4) A public notice referred to in subsection (2) shall include
   (a) information to enable members of the class to understand to whom the order is directed;
   (b) the details of the order;
   (c) information on where to direct inquiries about the order and where to obtain a copy of it.

28. (1) Where the Chief Public Health Officer believes on reasonable and probable grounds that a condition of any substance, thing, plant or animal is a health hazard, the Chief Public Health Officer may seize or cause the seizure of the substance, thing, plant or animal.

(2) The Chief Public Health Officer may detain and may remove a substance, thing, plant or animal seized under subsection (1) pending
such examination or inspection as is necessary in his or her opinion to determine the existence of the health hazard.

(3) Where the examination or inspection of a substance, thing, plant or animal seized under subsection (1) indicates that a health hazard is not present, the Chief Public Health Officer shall notify the owner or person from whom it was seized and shall release it to the owner or person.

(4) If the owner or person from whom a substance, thing, plant or animal was seized does not reclaim it within three working days after receiving notification under subsection (3), the Chief Public Health Officer may cause it to be disposed of or destroyed.

(5) Where an examination or investigation of a substance, thing, plant or animal seized under subsection (1) indicates that a health hazard is present, the Chief Public Health Officer shall destroy it, dispose of it or take such other action as he or she considers necessary to eliminate or decrease the health hazard.

(6) Where a substance, animal, plant or thing was seized and subsequently found to be a health hazard, the Chief Public Health Officer may recover from the owner or person from whom it was seized the cost of the seizure, destruction, disposal or other action that was taken to eliminate or decrease the health hazard and section 30 applies with the necessary modifications.

(7) Where food is seized under this section and the Chief Public Health Officer believes on reasonable and probable grounds that the condition of the food is a health hazard, subsections (2) to (4) do not apply and the Chief Public Health Officer may destroy or dispose of the food or cause it to be disposed of or destroyed without further examination or inspection.

29. Where the Chief Public Health Officer believes on reasonable and probable grounds that a health hazard exists at a premises and the person to whom an order is or would be directed under section 24
   (a) has refused to comply with or is not complying with the order;
   (b) is not likely to comply with the order promptly;
   (c) cannot readily be identified or located and as a result the order would not be carried out promptly; or
   (d) requests the assistance of the Chief Public Health Officer in preventing or decreasing the effects of or eliminating the health hazard,

the Chief Public Health Officer may enter the premises, with the persons, materials and equipment and using such force as the Chief Public Health Officer considers necessary, and may take such action as the Chief
Public Health Officer considers necessary to carry out or give effect to a provision of the order to eliminate or decrease the health hazard.

30. The expenses incurred by the Chief Public Health Officer to remediate a health hazard may be recovered with costs from any person to whom an order is or would be directed under section 24 in respect of the health hazard by action in a court of competent jurisdiction as a debt owed to Her Majesty in right of Prince Edward Island.

31. (1) The Chief Public Health Officer may apply to a judge of the Supreme Court for an order of the court under subsection (2) if a person to whom an order has been directed under this Part
   (a) refuses to comply with the order, or, in the Chief Public Health Officer’s opinion, is likely to refuse to do so; or
   (b) cannot be readily identified or located, and, as a result, the order cannot be carried out promptly.

(2) If the court is satisfied that the conditions for an application under subsection (1) are met, the court may make an order directing a person, including any or all peace officers in the province, to assist the Chief Public Health Officer in carrying out the order issued under this Part, using any force that is reasonably necessary in the circumstances.

(3) An order under this section may be made without providing prior notice to an owner of a substance, animal, plant or thing that is a health hazard, a person from whom the substance, animal, plant or thing was seized or the owner or occupier of the place or premises where the health hazard is located.

Notifiable Diseases or Conditions and Communicable Diseases

32. (1) Where the Minister is of the opinion that a public health emergency exists or may exist as a result of a disease or condition that is not listed in the regulations as a notifiable disease or condition, the Minister may make an order declaring the disease or condition to be a notifiable disease or condition, as the case may be.

(2) The Minister shall publish an order made under subsection (1) in one or more newspapers having general circulation in the province.

(3) An order made under subsection (1) is effective upon publication and for a period of six months after the date on which the order is first published, or until the order is revoked, whichever first occurs.

33. Where a medical practitioner, nurse practitioner or registered nurse, while providing professional services to a person who is not a patient in or an out-patient of a health facility or a resident of an institution, believes on reasonable and probable grounds that the person
(a) has or may have a notifiable disease or condition or is or may be infected with an agent of a communicable disease;
(b) is or may be affected by an injury or risk factor prescribed by regulation; or
(c) has suffered a reportable event prescribed by regulation,
the medical practitioner, nurse practitioner or registered nurse shall report the facts on which the belief is based, in accordance with the regulations, to the Chief Public Health Officer.

34. Where a person in charge of an institution believes on reasonable and probable grounds that a person under his or her custody or control
(a) has or may have a notifiable disease or condition or is or may be infected with an agent of a communicable disease;
(b) is or may be affected by an injury or risk factor prescribed by regulation; or
(c) has suffered a reportable event prescribed by regulation,
the person shall report the facts on which the belief is based, in accordance with the regulations, to the Chief Public Health Officer.

35. The administrator or person in charge of a health facility shall report, in accordance with the regulations, to the Chief Public Health Officer an entry in the records of the health facility that states that a person who is a patient in or an out-patient of the health facility
(a) has or may have a notifiable disease or condition or is or may be infected by an agent of a communicable disease;
(b) has been or may be affected by an injury or risk factor prescribed by regulation; or
(c) has suffered a reportable event prescribed by regulation.

36. The principal of a school or the operator of a child care facility who suspects that a pupil in the school or a child in the child care facility, as the case may be, has or may have a notifiable disease or condition specified by the regulations shall report the facts on which the suspicion is based, in accordance with the regulations, to the Chief Public Health Officer.

37. A medical practitioner, nurse practitioner or registered nurse who provides professional services to a person who has a communicable disease prescribed by regulation shall, in accordance with the regulations, report the person’s contacts related to the disease to the Chief Public Health Officer.

38. A medical practitioner shall report to the Chief Public Health Officer, in accordance with the regulations, the name and address of a person who is under the care and treatment of the medical practitioner in respect of a communicable disease specified in the regulations and who
refuses or neglects to continue the treatment in a manner and to a degree satisfactory to the medical practitioner.

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<td><strong>39.</strong> (1) Subject to subsection (2), the Chief Public Health Officer by a written order may require a person to take or refrain from taking any action that is specified in the order in respect of a communicable disease.</td>
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<td>(2) The Chief Public Health Officer may issue an order under this section where he or she believes on reasonable and probable grounds that</td>
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<td>(a) a communicable disease exists or may exist in the province;</td>
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<tr>
<td>(b) the communicable disease presents a risk to the health of persons in the province; and</td>
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<td>(c) the requirements specified in the order are necessary to prevent, decrease or eliminate the risk to health presented by the communicable disease.</td>
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<tr>
<td>(3) In an order under this section, the Chief Public Health Officer may specify the time or times when or the period or periods of time within which the person to whom the order is directed shall comply with the order.</td>
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<td>(4) An order under this section may include, but is not limited to,</td>
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<tr>
<td>(a) requiring any person that the order states has or may have a communicable disease or is or may be infected with an agent of a communicable disease to isolate himself or herself and remain in isolation from other persons;</td>
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<td>(b) requiring the person to whom the order is directed to submit to an examination by a medical practitioner and requiring the medical practitioner to deliver to the Chief Public Health Officer a report as to whether or not the person has a communicable disease or is infected with an agent of a communicable disease;</td>
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<tr>
<td>(c) requiring the person to whom the order is directed in respect of a disease that is a communicable disease to place himself or herself forthwith under the care and treatment of a medical practitioner; and</td>
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<tr>
<td>(d) requiring the person to whom the order is directed to conduct himself or herself in such a manner as not to expose another person to infection.</td>
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<tr>
<td>(5) An order under this section is not effective unless the reasons for the order are set out in the order.</td>
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<tr>
<td>(6) Where the delay necessary to put an order under this section in writing will or is likely to increase substantially the risk to the health of any person presented by the communicable disease, the Chief Public Health Officer may make the order orally and subsection (5) does not apply.</td>
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</table>
(7) Where an oral order is issued under this section, the contents of the order and the reasons for the order shall be put into writing and served on each person to whom the order was directed as soon as possible after making of the oral order, but a failure to comply with this subsection does not invalidate the order.

(8) A person to whom an order is directed under this section shall comply with the order.

40. Where an order by the Chief Public Health Officer in respect of a communicable disease is directed to a person under sixteen years of age and is served upon the parent of the person or any other person who has the lawful custody, care or control of the person under sixteen years of age, the parent or other person shall ensure that the order is complied with.

41. The issuance of an order under section 39 in relation to a communicable disease shall not affect the validity or force of any other order that is made under this Act, whether before, during or after the making of that order or taking of an action pursuant to that order.

42. (1) The Chief Public Health Officer may make an application to the court for an order under this section where a person has failed to comply with an order issued by the Chief Public Health Officer in respect of a communicable disease specified in the regulations that

   (a) the person isolate himself or herself and remain in isolation from other persons;
   (b) the person submit to an examination by a medical practitioner;
   (c) the person place himself or herself under the care and treatment of a medical practitioner; or
   (d) the person conduct himself or herself in such a manner as not to expose another person to infection.

   (2) Where the court is satisfied that a person has failed to comply with an order issued by the Chief Public Health Officer under section 39 or 40, the court may order, with respect to the person named in the order, any or all of the following:

   (a) that the person be taken into custody and admitted to and detained in a health facility named in the order;
   (b) that the person be examined by a medical practitioner to ascertain whether or not a person is infected with an agent of a communicable disease specified in the regulations;
   (c) that the person, if found on examination to be infected with an agent of a communicable disease specified in the regulations, be treated for the disease.
(3) An application under subsection (1) may be made ex parte and where so made the court may make an interim order under subsection (2).

(4) Where an interim order for detention is issued under this section, the Chief Public Health Officer may apply to the court for an order regarding the person who is the subject of the interim order immediately after the person is detained and the court shall hold a hearing within seventy-two hours after such application is made.

(5) An application heard under this section shall be heard in private, unless the person in respect of whom the application is made requests a public hearing by a notice filed with the court before the day of the hearing.

(6) An order issued under this section is authority for any person to locate and apprehend the person who is the subject of the order and to deliver that person to the health facility named in the order.

(7) An order issued under this section may be directed to any peace officer and the peace officer shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

(8) A person who apprehends a person who is the subject of an order issued under this section shall promptly
   (a) inform the person of the reasons for the detention and of the person’s right to retain and instruct counsel without delay; and
   (b) tell the person where the person is being taken.

(9) An order for detention issued under this section is authority to detain the person who is the subject of the order in the health facility named in the order and to care for the person and, where ordered, to examine the person and treat the person for the communicable disease specified in the regulations in accordance with generally accepted medical practice for a period of not more than three months from and including the day the order was issued.

43. The administrator or person in charge of a health facility shall designate a medical practitioner to have responsibility for a person named in an order issued under section 42 who is delivered to a health facility.

44. The medical practitioner responsible for a person named in an order made under section 42 shall report in respect of the treatment and the condition of the person to the Chief Public Health Officer in the manner, at the times and with the information specified by the Chief Public Health Officer.
45. Where upon application of the Chief Public Health Officer the court is satisfied
   (a) that the person continues to be infected with an agent of a communicable disease specified in the regulations; and
   (b) that the discharge of the person from the health facility would present a significant risk to the health of the public,
the court may by order extend the period of detention for not more than three months, and upon further applications by the Chief Public Health Officer, the court may extend the period of detention and treatment for further periods, each of which shall not be for more than three months.

46. The Chief Public Health Officer shall inform himself or herself as to the treatment and condition of the person detained in accordance with an order made under section 42 and shall issue a certificate authorizing the person’s release from detention as soon as the Chief Public Health Officer is of the opinion that the person is no longer infected with an agent of the communicable disease specified in the regulations or that the person’s release from detention will not present a significant risk to the health of the public.

47. (1) Where a person has failed to comply with an order of the Chief Public Health Officer under section 39 and there are exigent circumstances that make it impracticable to make an application to the court for an order under section 42, the Chief Public Health Officer may issue an order to detain the person named in the order.

   (2) An order for detention issued under this section is not effective unless dated and signed by the Chief Public Health Officer.

   (3) An order for detention issued under this section is valid for twenty-four hours after it is signed.

   (4) An order for detention issued under this section is authority for any person to locate and apprehend the person who is the subject of the order and to deliver that person to the health facility named in the order.

   (5) An order for detention issued under this section may be directed to any peace officer and the peace officer shall do all things reasonably able to be done to locate, apprehend and deliver the person in accordance with the order.

   (6) A person who apprehends a person who is the subject of an order for detention issued under this section shall promptly
       (a) inform the person of the reasons for the detention and of the person’s right to retain and instruct counsel without delay; and
       (b) tell the person where the person is being taken.
(7) An order for detention issued under this section is authority to detain and to care for the person who is the subject of the order in the health facility named in the order for a period not exceeding seventy-two hours.

(8) The Chief Public Health Officer shall file an application for an order of the court under section 42 respecting a person who has been detained under this section immediately after the person has been detained and the court shall hold a hearing within seventy-two hours after the application is filed.

(9) An application filed with the court for an order under section 42 is sufficient authority
   (a) for a peace officer or any other person to take the person who is the subject of the application to the court for a determination of the application; and
   (b) for the administrator or person in charge of the health facility named in an order made under this section to detain and care for the person who is the subject of the application in the health facility pending a determination of the application.

48. Where the Chief Public Health Officer has issued an order under section 39 in respect of a person who has or may have a communicable disease specified in the regulations and the person withdraws from the care and treatment specified in the order or fails to continue the specified action, sections 40 to 47 apply with the necessary modifications and the person shall be deemed to have failed to comply with an order of the Chief Public Health Officer.

PART III
PUBLIC HEALTH EMERGENCY

49. (1) The Lieutenant Governor in Council may make an order declaring a state of public health emergency with respect to all or any area of the province where, on the advice of the Chief Public Health Officer, the Lieutenant Governor in Council is satisfied that
   (a) a public health emergency exists or is imminent; and
   (b) prompt coordination of action or special measures are required in order to protect the public health.

(2) Where the Lieutenant Governor in Council makes an order under subsection (1), the Minister, on the advice of the Chief Public Health Officer, may take the following special measures:
   (a) issue directions, for the purpose of managing the threat, to an institution, health facility, corporation, health care organization,
operator of a laboratory, operator of an ambulance service, health professional or health care provider, including directions about
(i) identifying and managing cases,
(ii) controlling infection,
(iii) managing hospitals and other health care facilities and ambulance services, and
(iv) managing and distributing equipment and supplies;
(b) order the owner or occupier of any place or premises to deliver up possession of the place or premises to the Minister for use as a temporary assessment, treatment, isolation or quarantine facility in accordance with section 50;
(c) order a public place or any premises to be closed;
(d) order persons to
   (i) refrain from assembling in a public gathering in a specified area,
   (ii) limit the number of persons who will be permitted to attend a public gathering, or
   (iii) limit the purpose for a public gathering.

(3) Where the Lieutenant Governor in Council makes an order under subsection (1), the Chief Public Health Officer may order a person who the Chief Public Health Officer reasonably believes is not protected against a communicable disease to be immunized, or to take any other preventive measures.

(4) Nothing in this section limits the operation of any other provision in this Act or the regulations that imposes a duty or confers a power on any person.

(5) An order made under subsection (1) terminates on the expiry of thirty days from the date on which it was made, unless it is sooner terminated or continued by the Lieutenant Governor in Council.

(6) Where an order
   (a) has been made under subsection (1); or
   (b) has terminated thirty days after the date on which it was made or has been terminated by the Lieutenant Governor in Council; or
   (c) is continued by the Lieutenant Governor in Council,
the Minister shall cause the details of either the order, termination or continuation, as the case may be, to be communicated or published by any means of communication that the Minister considers sufficient to make the details known to the majority of the population to which the order, termination or continuation relates.

(7) Where the Chief Public Health Officer believes on reasonable and probable grounds that pandemic influenza is imminent, the Chief Public
Health Officer may direct that all or part of the provincial health pandemic influenza plan, if any, be implemented.

50. (1) The Minister may, for the purposes of clause 49(2)(b), take possession of a place or premises and may retain possession for the period that the Minister considers necessary.

(2) Where the place or premises includes a building, the Minister shall, before restoring the possession of the building to the owner, cleanse and disinfect it and put it in the same state of repair as it was in when possession was taken, and shall give notice to the owner that this has been done.

(3) The Minister shall pay to the owner a reasonable sum for the use of the place or premises.

(4) The compensation to be paid for such use or possession, if not agreed upon, may be summarily determined by a judge of the court upon application of either party and after reasonable notice to the other party.

51. (1) The Minister may apply to a judge of the Supreme Court for an order of the court under subsection (2) if an owner or occupier of a place or premises to whom an order to deliver up possession has been directed under clause 49(2)(b)

(a) refuses to deliver up possession of the place or premises to the Minister in accordance with the order, or, in the Minister’s opinion, is likely to refuse to do so; or

(b) cannot be readily identified or located, and, as a result, the order cannot be carried out promptly.

(2) If the court is satisfied that the conditions for an application under subsection (1) are met, the court may make an order directing a person, including any or all peace officers in the province, to put the Minister or the Chief Public Health Officer in possession of the place or premises, using any force that is reasonably necessary in the circumstances.

(3) An order under this section may be made without providing prior notice to the owner or occupier of the place or premises.

(4) Where pursuant to an order of the court under subsection (2) possession is taken without the consent of the owner, the Minister shall within ten days notify the owner.

(5) Where the owner is not known or is not resident in the province or if the owner’s residence is unknown, the notice referred to in subsection (4) is sufficiently given if

(a) the notice is published in the Royal Gazette;
(b) the notice is published for two insertions in the local newspaper, if any, published in the county where the place or premises are located; and
(c) a copy of the notice is sent by registered mail to the owner at the owner’s last known place of residence, if any, in the province.

52. (1) For greater certainty,
(a) an order declaring a state of public health emergency in respect of all or any area of the province that has been made by the Lieutenant Governor in Council under subsection 49(2) does not take precedence over a declaration of a state of emergency made by the Minister responsible for the administration of the Emergency Measures Act R.S.P.E.I. 1988, Cap. E-6.1; and
(b) in the event that the public health emergency escalates, the Chief Public Health Officer may recommend to the Minister responsible for the administration of the Emergency Measures Act that the Minister declare a state of emergency under that Act.

(2) Where a state of emergency is declared under the Emergency Measures Act, and where there is any conflict between a provision of this Act and a provision of the Emergency Measures Act, the provision of the Emergency Measures Act shall prevail.

53. (1) Notwithstanding any other enactment, where an order has been made by the Lieutenant Governor in Council declaring a state of public health emergency under subsection 49(1), the licensing body or the designate of the licensing body of a health profession, as the case may be, may grant a special limited license to a person who, in the licensing body’s opinion, is capable of practising a function of the health profession with any privileges or restrictions that may be determined concerning the duration or scope of the function, notwithstanding that the person may not fully meet the qualifications for licensure or that all of the required evidence of qualification is not provided.

(2) The term and particular conditions of the limited license shall be clearly indicated on the license and recorded in the register of the relevant licensing body.

PART IV

INFORMATION GATHERING AND SHARING

54. In this Part,
(a) “government agency” means
   (i) any board, commission, association, agency, or similar body, whether incorporated or unincorporated, all the members of
which, or all the members of the board of management or board of directors or governing board of which, are appointed by an Act of the Legislature or by the Lieutenant Governor in Council, and
(ii) any other body designated as a government agency in the regulations;

(b) “government department” means a department, branch or office of the Government of Prince Edward Island;

(c) “information” includes personal information, personal health information, proprietary information and confidential information;

(d) “person” includes a government agency and a government department;

(e) “personal health information” means identifying information about an individual in oral or recorded form that
(i) relates to the physical or mental health of the individual, including information that consists of the health history of the individual’s family,
(ii) relates to the providing of health care to the individual, including the identification of a person as a provider of health care to the individual,
(iii) is a plan of service developed for the individual,
(iv) relates to payments or eligibility for health care, or eligibility for coverage for health care, in respect of the individual,
(v) relates to the donation by the individual of any body part or bodily substance of the individual or is derived from the testing or examination of any such body part or bodily substance,
(vi) is the individual’s health number, or
(vii) identifies an individual’s substitute decision-maker.

55. Where a provision of this Part is inconsistent or in conflict with a provision of the Freedom of Information and Protection of Privacy Act R.S.P.E.I. 1988, Cap. F-15.01, the provision of this Part prevails.

56. (1) The Chief Public Health Officer may require any person to provide information that the Chief Public Health Officer reasonably considers necessary to assess the threat that a disease presents to public health, and to plan for and deal with the threat.

(2) The Chief Public Health Officer may, in writing, authorize a public health official or a health facility to collect the information required under subsection (1) on his or her behalf.

(3) A person required to provide information under this section shall do so.
57. (1) For the purpose of assessing the impact of, and planning for and dealing with, a threat to public health, the Minister and the Chief Public Health Officer may disclose information to each other and to any of the following:

(a) a public health official;
(b) a government department or government agency;
(c) an educational body, health facility or municipality;
(d) a department or agency of the Government of Canada or of another province or territory of Canada;
(e) a person or entity designated by the Government of Canada or by the government of another province or territory of Canada as being responsible for public health services;
(f) a band as defined in the Indian Act (Canada);
(g) the government of a foreign country, or of a state, province or territory of a foreign country; or
(h) an organization representing one or more governments, or an international organization of states.

(2) Subject to the regulations, for the purpose of administering or determining compliance with this Act, a public health official may disclose information to any person described in the regulations.

58. (1) The Minister may establish and maintain, or cause to be established and maintained by a government agency, a provincial information system for the ongoing and systematic collection, analysis, interpretation, publication and distribution of information necessary to

(a) gain an overall understanding of the health status of Prince Edward Islanders;
(b) anticipate, assess, monitor and plan for health needs and threats to public health;
(c) monitor and evaluate developments respecting public health and threats to public health;
(d) guide decisions and actions respecting public health;
(e) monitor and evaluate public health services;
(f) facilitate public health research and planning;
(g) produce public health advisories, reports and other notices; or
(h) permit timely access to and distribution of information.

(2) The provincial information system shall include the registries of information established and maintained in accordance with the regulations, and may include other information and other collections and compilations of information as directed by the Minister.

(3) Subject to the regulations, a registry forming part of the provincial information system may be established, maintained, or both, by a person who is designated in the regulations for this purpose.
PART V

ENFORCEMENT AND PENALTIES

Inspection, Investigation or Inquiry

59. (1) For the purpose of administering and enforcing this Act and the regulations, a public health official may
   (a) make any inspection, investigation or inquiry that the public health official considers necessary;
   (b) at any reasonable time enter, without a warrant, any premises other than an occupied dwelling;
   (c) conduct any tests, take any samples and make any examinations that the public health official considers necessary;
   (d) require any person whom the public health official finds at a premises to provide the public health official with any information the person can that might be relevant to the inspection, investigation or inquiry;
   (e) require the production of, inspect and take copies of any records that might be relevant to the inspection, investigation or inquiry;
   (f) require the production of any substance, thing, plant or animal for the purpose of an inspection, investigation or inquiry;
   (g) make or cause to be made any excavation for the purpose of an inspection, investigation or inquiry;
   (h) require that any thing be dismantled, operated, used or set in motion under specified conditions for the purpose of an inspection, investigation or inquiry;
   (i) subject to subsection (2), remove any records examined under this section for the purpose of making copies; and
   (j) seize, detain or destroy or cause to be destroyed anything that the public health official believes constitutes or contributes to a health hazard.

(2) If a public health official removes any records for copying under this section, the public health official shall
   (a) provide the owner or occupier of the premises from which the records were obtained with a receipt for the records removed;
   (b) make copies as soon as is reasonably possible; and
   (c) after making copies, return the records to the premises from which the records were obtained or some other place agreed to by the public health official and the owner or occupier of the premises.

(3) No public health official shall enter a dwelling without a warrant unless the occupant consents to the entry.

(4) The Chief Public Health Officer may make an ex parte application for a warrant to enter and search a dwelling or other premises.
(5) Where the Chief Public Health Officer makes an application under subsection (4), a justice or a judge may issue a warrant authorizing any public health official named in the warrant to enter and search any premises named in the warrant, if the justice or judge is satisfied, on information under oath, that there are reasonable and probable grounds to believe that

(a) an offence under this Act or the regulations is being or has been committed and there is evidence of the offence at the premises proposed to be searched; or

(b) a health hazard is present at the premises proposed to be searched that is or might become a significant risk to public health.

(6) Notwithstanding subsection (3), the Chief Public Health Officer may enter a dwelling without a warrant and exercise any of the powers under clauses (1)(c) to (g) if the Chief Public Health Officer believes on reasonable and probable grounds that

(a) either

(i) an offence under this Act or the regulations is being or has been committed and there is evidence of the offence at the premises proposed to be searched, or

(ii) a health hazard is present at the dwelling place that is or might become a significant risk to public health; and

(b) the delay caused by obtaining a warrant would

(i) result in the loss or destruction of evidence, or

(ii) increase the risk to public health presented by the health hazard.

60. The Chief Public Health Officer may request assistance from a peace officer in

(a) conducting an inspection, investigation, inquiry or search under this Act or the regulations; or

(b) enforcing an order made under this Act or the regulations, and the peace officer shall assist the public health official.

61. (1) No person shall hinder or obstruct a public health official or a person assisting a public health official

(a) in the conduct of an inspection, investigation, inquiry or search under this Act or the regulations; or

(b) in the enforcement of an order made under this Act or the regulations.

(2) A refusal of consent to enter a dwelling is not and shall not be deemed to be hindering or obstructing within the meaning of subsection (1), except where an entry warrant has been obtained.

(3) No person shall tamper with
(a) any equipment or materials used by a public health official or a person assisting him or her in the course of an inspection, investigation, inquiry or search under this Act or the regulations;
(b) any results obtained from an inspection, investigation, inquiry or search under this Act or the regulations;
(c) any notices, directions or orders posted on a premises.

(4) No person shall knowingly provide false or misleading information, either orally or in writing, to a public health official.

62. A public health official may be accompanied by other persons for any purpose mentioned in subsection 59(1), and those persons may carry out inspections, examinations, tests and inquiries and take any samples or do other things as directed by the public health official.

63. An owner or occupier of a place or premises and any employees or agents of the owner or occupier shall give all reasonable assistance to the public health official to enable the public health official to carry out his or her duties and functions under this Act and the regulations and shall furnish the public health official with the information that he or she reasonably requires for purposes referred to in subsection 59(1).

64. A copy of an order purporting to be made by the Chief Public Health Officer is, without proof of the office or signature of the Chief Public Health Officer, receivable in evidence as proof, in the absence of evidence to the contrary, of the making of the order and of its contents for all purposes in any action, proceeding or prosecution.

65. Where any provision of this Act or the regulations is contravened, notwithstanding any other remedy or penalty imposed, the Minister may apply to a judge of the Supreme Court for an order prohibiting the continuation or repetition of the contravention or the carrying on of any activity in the order that, in the opinion of the judge, will or will likely result in the continuation or repetition of the contravention by the person committing the contravention, and the judge may make the order and it may be enforced in the same manner as any other order or judgment of the Supreme Court.

66. (1) Every person who contravenes a provision of this Act or the regulations or a failure to comply with an order of the Chief Public Health Officer is guilty of an offence and liable on summary conviction
(a) for a first offence, to a fine of $1,000;
(b) for a second offence, to a fine of $2,000; and
(c) for a third and each subsequent offence, to a fine of $10,000 or to imprisonment for a term not exceeding six months, or both.
(2) A contravention of this Act or the regulations or a failure to comply with an order of the Chief Public Health Officer that is of a continuing nature constitutes a separate offence in respect of each day or part of a day that it continues.

(3) A public health official may issue a summary offence ticket or an information pursuant to the Summary Proceedings Act R.S.P.E.I. 1988, Cap. S-9, in respect of a contravention of this Act or the regulations or a failure to comply with an order of the Chief Public Health Officer.

PART VI

GENERAL

67. No person shall discipline, suspend, demote, dismiss, discharge, harass, interfere with or otherwise disadvantage another person or threaten to do any of those things to another person where the person, in good faith,
   (a) complies with a request or requirement to report or provide information under this Act or the regulations; or
   (b) voluntarily reports or provides information about a threat to public health or safety.

68. No action or other proceeding shall be brought against a person who, in good faith,
   (a) complies with a request or requirement to report or provide information under this Act or the regulations; or
   (b) voluntarily reports or provides information about a threat to public health or safety.

69. (1) No action or proceeding shall be brought against the Minister, the Chief Public Health Officer, the Deputy Chief Health Officer or another public health official or any other person acting under the authority of this Act or the regulations for anything done or not done, or for any neglect,
   (a) in the performance or intended performance of a duty imposed under this Act or the regulations; or
   (b) in the exercise or intended exercise of a power conferred under this Act or the regulations,
   unless the person was acting in bad faith.

   (2) A person who provides assistance under this Act or the regulations has the same protection as a person referred to in subsection (1), unless the person was acting in bad faith.

   (3) Subsection (1) does not apply to prevent an application for judicial review.
70. (1) A public health official may inspect, investigate or inquire into matters under another enactment pursuant to a provision that authorizes or requires a public health official to carry out those functions under that enactment.

(2) Sections 59 to 65 apply, with any necessary modifications, to an inspection, investigation or inquiry referred to in subsection (1), unless a contrary intention appears in the other enactment.

(3) Section 69 applies in respect of a public health official acting under subsection (1).

(4) The Minister may charge a fee in respect of an inspection, investigation or inquiry carried out by a public health official under another enactment.

71. (1) An order, notice or other document that is to be given to or served on a person shall be sufficiently given or served
   (a) if it is served in the manner in which personal service may be made under the Rules of Court;
   (b) if it is sent by registered mail to the last or usual address of that person;
   (c) if it is sent by registered mail to the last address of that person known to the Chief Public Health Officer;
   (d) if it is served in any other manner prescribed by regulation.

(2) Service by registered mail shall be deemed to be effected five days after the date of the mailing.

72. The Lieutenant Governor in Council may make regulations
   (a) classifying persons, organizations, food premises, premises, licenses, places, plants, animals, things or any of them for the purposes of the regulations;
   (b) exempting any person, organization, food premises, premises, place, plant, animal, thing, solid, liquid, gas or combination of any of them, or any class of any of them, from any provision of this Act or the regulations and prescribing conditions that apply in respect of any such exemption;
   (c) adopting, by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code, standard or guide and requiring compliance with the code, standard or guide adopted;
   (d) prescribing additional duties of the Chief Public Health Officer and other public health officials;
   (e) respecting the construction, equipment, facilities, including sanitary facilities, operation, maintenance and alteration of food
premises and prescribing standards and requirements in respect of any of them;
(f) respecting the manufacturing, processing, preparation, storage, handling, display, transportation, sale or offering for sale of any food on or in food premises and the distribution of food from food premises and prescribing standards and requirements in respect of those activities;
(g) respecting the inspection, method of construction, equipping, maintaining, cleaning and disinfecting of all buildings involved in the preparation, storage, or sale of food including slaughterhouses under this Act, public markets, eating establishments and licensed premises, retail outlets that contain food premises, warehouses, bakeries, poultry plants and frozen food plants;
(h) establishing or adopting standards respecting
   (i) construction, equipment, operation, sanitation and general cleanliness of milk processing plants, retail outlets and other places in which milk and milk products are processed, produced, distributed, received, handled, stored, kept for sale or sold,
   (ii) the safety of milk and milk products at all stages of processing, production, distribution and sale in the province,
   (iii) sanitation, management and maintenance of all dairies, milk processing plants, distribution centres and retail outlets,
   (iv) health, hygiene requirements and work practices of persons involved in the processing or production of milk and milk products at milk processing plants,
   (v) the methods to be used in processing milk or producing any milk product at a milk processing plant, and
   (vi) the addition to milk or milk products of a specified substance, matter or thing;
(i) providing for the sampling, testing and analyzing of milk or milk products, including specifying the tests to be used and procedures to be followed in testing;
(j) designating products processed or derived in whole or in part from milk as milk products;
(k) specifying the milk products that may be processed in a milk processing plant;
(l) prescribing species of animals whose normal lacteal secretions are milk as defined in clause 1(m) of this Act;
(m) providing for measures, including detention, seizure and destruction, to be taken in respect of milk or milk products for the purposes of an order issued under sections 24 or 26;
(n) respecting the recall of milk or milk products that are the subject of an order under section 26, including measures for the disposal or destruction of the milk or milk products;
(o) the standards and conditions under which livestock products may be processed and held for sale in any part of the province;
(p) the manner in which slaughterhouse operators shall maintain and monitor the identity of cattle and cattle carcasses throughout processing;
(q) the imposition on slaughterhouse licenses of any terms or conditions deemed necessary by the Chief Public Health Officer;
(r) standards of hygiene of vehicles and containers used for the transportation of food;
(s) prescribing chemical and microbiological standards for food and requiring compliance with those standards;
(t) prescribing standards and requirements, including but not limited to standards respecting hygiene, in respect of persons who operate food premises and in respect of persons who are employed in or on food premises;
(u) prescribing the qualifications and training of persons who operate or are employed in or on a food premises;
(v) prescribing records, reports and returns to be made by a licensee or a person who operates a food premises and respecting the maintenance, retention and destruction of those records, reports and returns;
(w) respecting the records to be kept in respect of the source of supply, date of packaging or production and the distribution of any food;
(x) prescribing standards and requirements in respect of potable water;
(y) respecting the registration of tanning facilities and the information to be provided by an owner of a tanning facility for the purposes of section 20;
(z) prescribing the forms of identification acceptable as proof of age of a person for the purposes of subsection 18(2);
(aa) respecting licenses, including the application process for a license, the issuance, transfer, suspension, revocation and reinstatement of licenses, the requirements that shall be met by an applicant in respect of a proposed enterprise or activity that is subject to the license, the information that shall be specified in the license, the terms and conditions that may be imposed on the license and the duration of a license, and providing for an appeal from a decision to suspend or revoke a license;
(bb) respecting fees to be paid
   (i) on application for a license and on the transfer, renewal or reinstatement of a license, and
   (ii) for any good or service provided under this Act or the regulations;
(cc) respecting registration fees for the purposes of clauses (p) and (oo);
(dd) respecting the construction, maintenance, equipment, sanitary management, alteration, repair and use of swimming pools, hot tubs, whirlpools and water slides and ancillary equipment and facilities;
(ee) respecting the inspection, supervision, cleansing, purifying, plumbing, drainage, closure, ventilating and disinfecting of swimming pools, hot tubs, whirlpools and water slides;
(ff) prescribing places for the purposes of the definition “institution”;
(gg) respecting the identification and classifying of communicable diseases, agents of communicable diseases, notifiable diseases and conditions, reportable injuries, risk factors and events and the reporting of them to the Chief Public Health Officer by the persons specified in sections 33 to 38 and any other person having knowledge of the person affected or that person’s contacts;
(hh) respecting the reporting of cases of human contact with animals that have or may have diseases that adversely affect the health of any person;
(ii) respecting the destruction, testing or quarantine of animals that have or may have diseases that adversely affect the health of persons;
(jj) respecting the control of communicable diseases;
(kk) respecting the immunization of residents of the Province;
(ll) respecting the reporting of immunizations by medical practitioners, nurse practitioners and nurses and other specified;
(mm) respecting the supply of vaccines, serums, drugs and biological preparations;
(nn) respecting inspections, investigations and inquiries for the purposes of this Act;
(oo) respecting the regulation of devices that emit radiation, including prohibiting or limiting the use of a radiation-emitting device by persons or classes of persons as specified and requiring the registration of radiation-emitting devices;
(pp) the control of health hazards from devices whose operation involves ray-emission or principles of radiation;
(qq) respecting health hazards and the conditions, things or activities that constitute health hazards;
(rr) the establishment and enforcement of standards for the disinterment of human remains;
(ss) requirements for the protection of the health of persons attending outdoor events including but not limited to the provision of potable water and adequate toilet and first aid facilities;
(tt) the inspection, design, maintenance, cleaning and disinfecting of all buildings in which a service to the public is offered including,
without limiting the generality of the foregoing, daycare centres, recreational and work-related camps, private nursing homes and community care facilities;

(uu) the provision of personal services that involve the piercing or penetration of a person’s skin including but not limited to tattooing, micropigmentation, electrolysis, implants and piercing of the ears or other part of the body, and any other procedure designated as a personal service;

(vv) designating the person who may establish and or maintain a registry forming part of the provincial information system for the purposes of section 58;

(ww) prescribing methods of establishing and maintaining registries of information for the purposes of section 58;

(xx) designating bodies as government agencies for the purposes of Part IV;

(yy) prescribing persons to whom a public health official may disclose information for the purposes of subsection 57(2);

(zz) defining words used but not defined in this Act;

(zz.1) prescribing any matter referred to in this Act as prescribed by the regulations;

(zz.2) respecting any other matter or thing that in the opinion of the Lieutenant Governor in Council is necessary to give full effect to the intent and purpose of this Act.

TRANSITIONAL PROVISIONS


(2) The person who was appointed as and held the position of the Chief Health Officer under the former Act immediately before the commencement of this section are deemed to have been appointed as the Chief Public Health Officer under section 4 of this Act.

(3) The persons who were appointed as and held the positions of Deputy Chief Health Officers under the former Act immediately before the commencement of this section are deemed to have been appointed as Deputy Chief Public Health Officers under section 4 of this Act.

(4) The persons who were appointed as and held the positions of health officers under the former Act immediately before the commencement of this section are deemed to have been appointed as environmental health officers under section 6 of this Act.

74. Any license that was issued under the former Act that was valid and subsisting immediately before the commencement of this section is
deemed to be a license issued under this Act and is valid until it expires, unless it is suspended or revoked under this Act or the regulations.

75. Where in any Act, other than this Act, or in any regulation, rule, order, by-law, agreement or document, reference is made to the Chief Health Officer, it shall be read, unless the context otherwise requires, as a reference to the Chief Public Health Officer.

REPEAL AND COMMENCEMENT


77. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.
EXPLANATORY NOTES

SECTION 1 establishes definitions for the purposes of the Act, including definitions of “communicable disease”, “food”, “food premises”, “health hazard”, “premises” and “public health emergency”.

SECTION 2 establishes that the Minister of Health and Wellness is the Minister responsible for the Act and authorizes the Minister to designate persons to act on the Minister’s behalf.

SECTION 3 establishes the general authority of the Minister with respect to matters concerning the health of Islanders, authorizes the Minister to enter into agreements for the purposes of the Act with the federal or other provincial governments, and authorizes the Minister to enter into agreements for the organization and delivery of public health programs and services with any person.

SECTION 4 authorizes the Minister to appoint a Chief Public Health Officer and Deputy Chief Public Health Officers.

SECTION 5 authorizes the Chief Public Health Officer to exercise the powers and perform the duties assigned by the Act and regulations or by the Minister, and establishes the circumstances in which a Deputy Chief Public Health Officer may act for the Chief Public Health Officer.

SECTION 6 authorizes the Minister to appoint environmental health officers for the purposes of the Act and regulations.

SECTION 7 authorizes the Minister to appoint registered nurses as public health nurses.

SECTION 8 authorizes the Minister to issue a certificate of appointment to every public health official and requires every public health official to produce the certificate on request when engaged in performing his or her duties.

SECTION 9 prohibits the sale of any food that is unfit for human consumption because of disease, adulteration, impurity or other cause.

SECTION 10 provides for an application process for a food premises license and prohibits the operation of a food premises except by a holder of a valid license.
SECTION 11 sets out the requirements that must be met by a person to hold a food premises license and the terms and conditions to which the license is subject.

SECTION 12 requires a person who holds a food premises license to ensure that the manufacture, processing, preparation, packaging, storage and handling of food on the premises is done under sanitary conditions.

SECTION 13 requires the staff of a food premises to comply with standards and requirements to be set out in the regulations.

SECTION 14 provides for an application process for a milk processing plant license and prohibits the operation of a milk processing plant except by a holder of a valid license.

SECTION 15 authorizes the Chief Public Health Officer to require that sample of milk be tested at the expense of the owner of the milk to ensure compliance with the applicable standards set out in the regulations.

SECTION 16 prohibits the sale, keeping for sale, distributing or transporting of any processed milk or milk products that do not meet the applicable standards set out in the regulations.

SECTION 17 provides for an application process for a slaughterhouse license, authorizes the Minister to issue a license subject to any necessary terms and conditions and prohibits the operation of a slaughterhouse except by a holder of a valid license.

SECTION 18 prohibits the marketing or sale of access to tanning equipment to a person under the age of 18 years. It also requires a person who appears to be younger than 18 years of age to produce a prescribed form of identification as proof of age in order to obtain access to tanning equipment.

SECTION 19 makes an exemption from section 18 in respect of ultraviolet light treatments prescribed or provided by a medical practitioner or a nurse practitioner.

SECTION 20 requires the Minister to establish a registry of tanning facilities and requires owners of tanning facilities to register the particulars of their operations as set out in the regulations and pay the prescribed fee.
SECTION 21 requires owners of tanning facilities to display the prescribed warning signs in the tanning facility.

SECTION 22 sets out the types of conditions, things or activities that constitute a health hazard, provides that additional conditions, things or activities may be prescribed, and requires the reporting of health hazards to a public health official.

SECTION 23 requires a public health official to investigate where the public health official believes on reasonable and probable grounds that a health hazard exists, and authorizes the public health official to issue a direction in respect of the health hazard. The direction must provide the reasons for issuing it, the remedial action to be taken and the time limit for taking it, and a statement advising that if the direction is not followed the Chief Public Health Officer may issue an order in respect of the health hazard.

SECTION 24 authorizes the Chief Public Health Officer to issue an order to prevent, decrease the effect of or eliminate a health hazard, which may include an order to vacate the premises, close or restrict access to the premises, require the performance of specified work, require the removal of the health hazard, or prohibit or regulate activities or uses of the premises or things. The order is subject to two conditions: the remedial action specified must be necessary in order to deal with the health hazard, and less intrusive means of dealing with the problem will not, in the opinion of the Chief Public Health Officer, be sufficiently effective.

SECTION 25 sets out specific authority for the Chief Public Health Officer to issue an order under section 24 to deal with food, milk or milk products that are unsanitary or have been produced in contravention of the Act and regulations, or that are suspected on reasonable grounds of being injurious to health. The order may authorise the seizure or destruction of the food, milk or milk products.

SECTION 26 sets out specific authority for the Chief Public Health Officer to issue an order under section 24 respecting the recall of food, milk or milk products that have been distributed for sale and are suspected on reasonable grounds of being injurious to health or of failing to meet the applicable standards prescribed or adopted in the regulations. The order may authorise the destruction of the food, milk or milk products.

SECTION 27 authorizes an order issued under section 24 to be directed to a specified class of persons and provides for public notice of such an
order instead of service of the order on each member of the class of person specified.

SECTION 28 sets out specific authority for the Chief Public Health Officer to seize any substance, thing, plant or animal where the Chief Public Health Officer believes on reasonable and probable grounds that the substance, thing, plant or animal is a health hazard, to detain and examine the seized item, and either return it to the owner or person from whom it was seized, or destroy or otherwise dispose of it. This section also authorizes the Chief Public Health Officer to recover the cost of the measures taken to deal with a health hazard under this section from the owner or the person from whom the health hazard was seized.

SECTION 29 sets out specific authority for the Chief Public Health Officer to deal with health hazards on premises where it is believed on reasonable and probable grounds that the person to whom an order under section 24 would be directed cannot be found or has refused or is likely to refuse to comply with the order. In that situation the Chief Public Health Officer may enter the premises and take the necessary measures to eliminate or decrease the health hazard.

SECTION 30 authorizes the Chief Public Health Officer to recover the expenses incurred in remediating a health hazard as a debt owed to the Crown.

SECTION 31 authorizes the Chief Public Health Officer to apply to the court for a order where a person to whom an order has been directed refuses or is likely to refuse to comply with the order, or cannot be identified or located. The order of the court may provide for the assistance of peace officers to assist the Chief Public Health Officer, and may be made without notice to any person affected by the order.

SECTION 32 authorizes the Minister to make an order declaring a disease or condition to be a notifiable disease or condition. This is in addition to the notifiable diseases and conditions set out in the regulations.

SECTIONS 33, 34, 35 and 36 require a medical practitioner, nurse practitioner or registered nurse, a person in charge of an institution, a chief executive officer of a health facility and a principal of a school or operator of a child care facility to report to a public health official where a specified person has or may have a notifiable disease or condition, a communicable disease or a prescribed injury or risk factor, or has suffered a reportable event prescribed in the regulations.
SECTION 37 requires a medical practitioner, nurse practitioner or registered nurse to report to a public health official respecting the contacts of a person who has a prescribed communicable disease.

SECTION 38 requires a medical practitioner to report to a public health official respecting a person who has a prescribed communicable disease and who refuses or neglects to continue the treatment for the communicable disease.

SECTION 39 authorizes the Chief Public Health Officer to issue orders where the Chief Public Health Officer believes on reasonable and probable grounds that a communicable disease exist or may exist in the province and the order is necessary to prevent, decrease or eliminate the health risks presented by the communicable disease. An order under this section may require a person to remain in isolation, to submit to a medical examination, to submit to treatment for the communicable disease or to refrain from exposing other persons to infection.

SECTION 40 establishes that where an order in respect of a communicable disease is directed to a person under the age of 16 and served on the parent of the person, or another person who has lawful custody of the person under the age of 16, the parent or other person is required to ensure that the order is complied with.

SECTION 41 provides that an order issued under section 39 in respect of a communicable disease does not invalidate any other order made under the Act.

SECTION 42 authorizes the Chief Public Health Officer to apply for a court order where a person has failed to comply with an order issued under section 39. The court order may require the person to be taken into custody, examined by a medical practitioner and, if found to have a communicable disease, be treated for it. If the court issues a detention order on an interim basis, the Chief Public Health Officer may apply for a longer-term order and the court is required to hear the application within 72 hours. A person detained under this section must be informed of the reasons for the detention and where the person is being taken. The detention period is a maximum of 3 months.

SECTION 43 requires the chief executive officer of a health facility to designate a medical practitioner to have responsibility for a person named in an order under section 42 who is delivered to the health facility.
SECTION 44 requires the medical practitioner designated under section 43 to report on the treatment and condition of the person to the Chief Public Health Officer.

SECTION 45 authorizes the court to extend the period of detention for up to 3 months, with additional periods of up to 3 months, where the Chief Public Health Officer satisfies the court that the person continues to be infected with the communicable disease and that the person’s discharge would present a significant risk to the health of the public.

SECTION 46 requires the Chief Public Health Officer to keep informed of the condition of a person detained under section 42 and to authorize the person’s release as soon as the Chief Public Health Officer is satisfied that the person is no longer infected with the communicable disease or that the person’s release does not present a significant risk to the health of the public.

SECTION 47 authorizes the Chief Public Health Officer, where a person has failed to comply with an order under section 39 and there is no time to apply to the court for an order under section 42, to issue an order to detain the person. An order issued under this section is valid only for 24 hours, and may require a peace officer to locate and apprehend the person named in the order. Where a person is detained under this section, the Chief Public Health Officer must apply to the court under section 42 immediately and the court is required to hold a hearing within 72 hours after the application is filed.

SECTION 48 provides that where a person who has been ordered under section 39 to undergo treatment for a communicable disease has withdrawn from the required treatment, the person is deemed to have failed to comply with an order of the Chief Public Health Officer, and sections 40 to 47 apply with the necessary modifications.

SECTION 49 authorizes the Chief Public Health Officer to order the implementation of the provincial health pandemic influenza plan where the Chief Public Health Officer believes on reasonable and probable grounds that pandemic influenza is imminent. The section also authorizes the Lieutenant Governor in Council, in the same circumstances, to declare a state of public health emergency in any part of the province where a public health emergency exists or is imminent. The order expires after 30 days, but may be continued by order of the Lieutenant Governor in Council. This section also authorizes the Minister, where the Lieutenant Governor in Council has declared a state of public health emergency, to take special measures to manage the threat to public health, including issuing directions to specified persons about identifying
cases, controlling infection and managing health care resources to deal with the emergency, taking over premises for temporary use, closing a public place or premises and limiting attendance at or the holding of public gatherings. The section further authorizes the Chief Public Health Officer to order persons to be immunized. Finally, the Minister must publish the details of the order made by the Lieutenant Governor in Council, and the termination or continuation of the order.

SECTION 50 authorizes the Minister to take possession of a place or premises and provides for compensation for an owner or occupier whose premises are used under clause 49(3)(b) during a state of public health emergency.

SECTION 51 authorizes the Minister to apply to the court for an order where a person refuses to comply with an order under clause 49(3)(b) to give up possession of premises for use during a state of public health emergency.

SECTION 52 clarifies that a declaration of a state of public health emergency does not take precedence over a declaration of a state of emergency under the Emergency Measures Act, and authorizes the Chief Public Health Officer to recommend the declaration of a state of emergency under that Act if the public health emergency escalates.

SECTION 53 authorizes the licensing body of a health profession, where an order declaring a state of public health emergency has been made under section 49(2), to grant a special limited license to a person who is capable of practicing a function of the health profession, with any necessary conditions as to duration or scope, although the person is not fully qualified for licensure.

SECTION 54 establishes definitions for the purposes of Part IV of the Act.

SECTION 55 provides that in the event of a conflict between the provisions of Part IV and the Freedom of Information and Protection of Privacy Act, the provisions of Part IV prevail.

SECTION 56 authorizes the Chief Public Health Officer to require the provision of information that the Chief Public Health Officer reasonably considers necessary to assess and deal with a threat to public health. The information required could include personal information and personal health information. The information may be collected by a public health official or a health facility authorized in writing by the Chief Public Health Officer for that purpose.
SECTION 57 authorizes the disclosure of information to specified persons, entities, government departments and agencies for the purpose of assessing the impact of, planning for and dealing with a threat to public health. The section further authorizes disclosure of information for the purpose of administering or determining compliance with the Act by a public health official to a person described in the regulations.

SECTION 58 authorizes the Minister to establish and maintain a provincial information system to collect, analyse, interpret, publish and distribute information for specified purposes relating to public health. The provincial information system shall contain registries prescribed in the regulations and may include other information.

SECTION 59 authorizes any public health official to make inspections, investigations and inquiries for the purpose of administering and enforcing the Act and the regulations, and provides specific powers to the public health official for that purpose. The section prohibits a public health official from entering a dwelling without a warrant unless the occupant consents, and provides for the Chief Public Health Officer to make an ex parte application for a warrant. The section also provides that the Chief Public Health Officer may enter a dwelling without a warrant in certain exigent circumstances.

SECTION 60 authorizes the Chief Public Health Officer to request the assistance of peace officers to conduct an inspection, investigation, search or inquiry or to enforce an order, and requires the peace officer to provide the assistance requested.

SECTION 61 provides that it is an offence to hinder or obstruct a public health official or a person assisting the public health official in an inspection, investigation, search of inquiry or in the enforcement of an order. For clarification, it provides that a refusal of consent to enter a dwelling is not hindering or obstructing except where a warrant for entry has been obtained. It also prohibits a person from tampering with equipment or materials used by a public health official or the results obtained from an inspection, investigation, search or inquiry, and with any notice, direction or order posted on a premises. Finally, it prohibits any person from providing false or misleading information to a public health official.

SECTION 62 authorizes a public health official to be accompanied by other persons for the purposes of subsection 59(1).
SECTION 63 requires an owner or occupier of a place or premises and employees or agents to give all reasonable assistance to a public health official acting under subsection 59(1).

SECTION 64 provides that a copy of an order of the Chief Public Health Officer may be received in evidence as proof of the making of the order and its contents, in the absence of evidence to the contrary.

SECTION 65 authorizes the Minister, in the event of a contravention of the Act or the regulations, to apply for a court order prohibiting the continuation or repetition of the contravention.

SECTION 66 provides penalties for a contravention of a provision of the Act or the regulations or a failure to comply with an order of the Chief Public Health Officer, and provides that a contravention or failure that is of a continuing nature constitutes a separate offence for each day or part of a day on which it continues.

SECTION 67 makes it an offence to discipline, suspend, demote, dismiss, discharge harass, interfere with or otherwise disadvantage a person who has complied with a request to provide information or has voluntarily provided information for the purposes of the Act and the regulations.

SECTION 68 prohibits the bringing of an action or other proceeding against a person who has provided information as set out in section 67 in good faith.

SECTION 69 prohibits the bringing of an action or other proceeding against the Minister, a public health official or another person acting under the authority of the Act unless the person was acting in bad faith.

SECTION 70 authorizes a public health official to exercise the powers and carry out the duties set out in sections 59 to 63 for the purposes of an inspection, investigation or inquiry under another enactment if the other enactment specifically authorizes the public health official to do so. The section provides that section 69 applies to a public health official acting pursuant to another enactment. The section also authorizes the Minister to charge a fee in respect of the services of a public health official provided pursuant to another enactment.

SECTION 71 establishes rules for service of orders, notices and other documents for the purposes of the Act.
SECTION 72 authorizes the Lieutenant Governor in Council to make regulations for the purposes of the Act.

SECTION 73 provides for the continuation of persons appointed under the former Public Health Act and deems them to have been appointed under this Act.

SECTION 74 provides that a license issued under the Public Health Act is deemed to be a license under this Act.

SECTION 75 provides that a reference to the Chief Public Health Officer by the former title shall be read as a reference to the Chief Public Health Officer under this Act.

SECTION 76 repeals the former Public Health Act.

SECTION 77 provides for the commencement of this Act.
### BILL NO. 6

**Public Health Act**

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**SIGNATURES:**

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Honourable H. Frank Lewis, Lieutenant Governor

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Honourable Carolyn I. Bertram, Speaker

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Clerk

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Honourable Doug W. Currie
Minister of Health and Wellness

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**GOVERNMENT BILL**

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