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N.S. Reg. 131/2000

Made: July 14, 2000

Filed: July 18, 2000

Ministerial Order re Percy Willis Aulenback

Order dated July 14, 2000
made under subsection 125(1) of the
Environment Act

00-10

IN THE MATTER OF Chapter 1 of the Statutes of Nova Scotia 1994-95, the
Environment Act

- and -

IN THE MATTER OF an Order issued pursuant to the provisions of the said
Act to **Percy Willis Aulenback** located at or near Farmville, in the County of
Lunenburg, Province of Nova Scotia.

MINISTERIAL ORDER

I. **WHEREAS** Percy Willis Aulenback owns, occupies, operates or is responsible for the operation of a plant, structure, facility, undertaking or thing, to wit: a tree harvesting operation which is located at or near the north end of Naas Lake, in the County of Lunenburg, Province of Nova Scotia, hereafter called the "Site";

II. **AND WHEREAS** the Minister of the Environment believes on reasonable and probable grounds that the persons named in this Ministerial Order have contravened the *Environment Act*;

Environment Act

67(2) No person shall release or permit the release into the environment of a substance in an amount, concentration or level or at a rate of release that causes or may cause a significant adverse effect, unless authorized by an approval or the regulations.

71 Any person responsible for the release of a substance under this Part shall, at that person's own cost, and as soon as that person knows or ought to have known of the release of a substance into the environment that has caused, is causing or may cause an adverse effect,

- (a) take all reasonable measures to
 - (i) revert, reduce and remedy the adverse effects of the substance, and

- (ii) remove or otherwise dispose of the substance in such a manner as to minimize adverse effects;
- (b) take any other measures required by an inspector or an administrator; and
- (c) rehabilitate the environment to a standard prescribed or adopted by the Department.

III. **AND WHEREAS** the Minister is of the opinion that it is in the public interest to do all things and take all steps necessary to comply with the *Environment Act* or to repair any injury or damage, or to control, eliminate or manage an adverse effect;

IT IS HEREBY ORDERED:

That pursuant to subsection 125(1) of the *Environment Act*, the persons named in this Ministerial Order shall, at their own cost, comply with the terms and conditions, including compliance times, set forth in Schedule "A" attached to and forming part of this Ministerial Order.

AND TAKE NOTICE if the persons to whom this Ministerial Order is directed fail to comply with the Ministerial Order, or any part thereof, the Minister, pursuant to [sub]section 132(2) of the *Environment Act*, may take whatever action the Minister considers necessary to carry out the terms of the Ministerial Order and may recover any reasonable costs, expenses and charges incurred by the Minister pursuant to Section 132 of the *Environment Act*.

AND FURTHER TAKE NOTICE that the appeal provisions respecting the issuance of a Ministerial Order are more fully outlined in Section 138 of the *Environment Act*, including a 30 day time period from the date of the issuance of the Ministerial Order to file an appeal.

DATED at Halifax, in the County of Halifax, Province of Nova Scotia, this 14th day of July, 2000.

(Signed) *Kevin McNamara*
Kevin McNamara
Acting Deputy Minister of the Environment

SCHEDULE "A"**TERMS AND CONDITIONS****Percy Willis Aulenback****1. Cessation of Activities**

The person named in this Ministerial Order shall immediately stop all forestry activities on lands which drain into and may impact upon Naas Lake except those remedial activities which are approved by the Department of the Environment and are necessary to comply with this Order.

2. Notice to Department

The person named in this Ministerial Order shall notify the Bridgewater office of the Nova Scotia Department of the Environment (telephone: 543-4685) **24 hours** prior to the commencement of any remedial work required under this Order or under a Remedial Action Plan required by this Order.

3. Short Term Remediation

The person named in this Ministerial Order shall submit to the contact person named in section 7 of this Order, a **Short Term Remedial Action Plan** prepared by a professional engineer familiar with erosion control practices. The Plan shall identify the measures necessary to protect all exposed soils from further erosion and ensure that runoff does not reach the "watercourse" or Naas Lake to create an adverse effect. The measures shall include but not be limited to [~~the construction of~~]:

- (a) the construction of diversion trenches,
- (b) the construction of flow checks,
- (c) the construction of settling areas,
- (d) the construction of silt fences, and
- (e) mulching and seeding.

The Plan shall also provide for the removal of the existing culvert and the replacement of that culvert with a culvert of proper size and construction. **The person named in this Order shall submit the plan and ensure the work is completed pursuant to the Plan within fourteen (14) days of receipt of this Order.**

4. Long Term Remediation

Within 21 days of the receipt of this Ministerial Order, the person named in this Ministerial Order shall submit to the contact person named in section 7 of this Ministerial Order, a **Long Term Remedial Action Plan** prepared by a professional engineer familiar with erosion control practices. The engineer shall develop a plan for either

- (a) the removal and rehabilitation of the roadway, or
- (b) the construction of a proper stable roadway, (this includes the roadway through the low area before the 'culvert' to the top of the slope in the northeast).

Either plan must incorporate an erosion and sedimentation control plan and a drainage plan. The plan shall contain an implementation schedule and the plan and the schedule must be approved by the Nova Scotia Department of the Environment.

5. Implementation

Immediately upon receipt of written approval of the Long Term Remedial Action Plan, the person named in this Ministerial Order shall carry out the Remedial Action Plan within the time frames identified in the Plan, but in any event within **30 days** following the receipt of the Department's approval of the plan or within such longer period of time as may be determined by the contact person.

6. Time Extensions

If the person named in the Ministerial Order submits a written request to the NSDOE for an ~~extension~~ [extension] of time, together with reasons for the ~~extension~~ [extension], the Minister or the contact person may grant the request.

7. Departmental Contact

Unless otherwise notified in writing by the Minister, the contact person in the NSDOE is:

Jeff Garnhum
District Manager
Bridgewater District Office
60 Logan Road
Bridgewater, NS B4V 3J8

Phone: (902) 543-4685
Fax: (902) 527-5480

N.S. Reg. 132/2000

Made: July 21, 2000

Filed: July 25, 2000

Proclamation, S. 33, S.N.S. 1999, c. 4 - S. 5(2)

Order in Council 2000-378 made July 21, 2000
 Proclamation made by the Governor in Council
 pursuant to Section 33
 of the *Business Efficiency (1999) Act*

The Governor in Council on the report and recommendation of the Minister of Business and Consumer Services dated June 21, 2000, pursuant to Section 33 of Chapter 4 of the Acts of 1999, the *Business Efficiency (1999) Act*, and subsection (7) of Section 3 of Chapter 235 of the Revised Statutes of Nova Scotia, 1989, the *Interpretation Act*, is pleased to order and declare by proclamation that subsection (2) of Section 5 of Chapter 4 of the Acts of 1999, the *Business Efficiency (1999) Act*, come into force on and not before August 1, 2000.

PROVINCE OF NOVA SCOTIA

Sgd: *Myra A. Freeman*

G/S

of God,

ELIZABETH THE SECOND, by the Grace
 of the United Kingdom, Canada and Her
 Other Realms and Territories, Queen, Head
 of the Commonwealth, Defender of the Faith.

TO ALL TO WHOM THESE PRESENTS SHALL COME, OR WHOM THE
 SAME MAY IN ANY WISE CONCERN,

GREETING:

A PROCLAMATION

WHEREAS in and by Section 33 of Chapter 4 of the Acts of 1999, the *Business Efficiency (1999) Act*, it is enacted as follows:

- 33 Subsection 5(2) and Sections 27 to 29 come into force on such day as the Governor in Council orders and declares by proclamation.

AND WHEREAS it is deemed expedient that subsection 5(2) of Chapter 4 of the Acts of 1999, the *Business Efficiency (1999) Act*, come into force on August 1, 2000;

NOW KNOW YE THAT WE, by and with the advice of the Executive Council of Nova Scotia, do by this Our Proclamation order and declare that subsection 5(2) of Chapter 4 of the Acts of 1999, the *Business Efficiency (1999) Act*, come into force on August 1, 2000, of which all persons concerned are to take notice and govern themselves accordingly.

IN TESTIMONY WHEREOF We have caused these
our Letters to be made Patent and the Great
Seal of Nova Scotia to be hereunto affixed.

WITNESS, Our Trusty and Well Beloved Her Honour
the Honourable Myra A. Freeman, Lieutenant
Governor of the Province of Nova Scotia.

AT Our Government House in the Halifax Regional
Municipality, this 21st day of July, in the year
of Our Lord two thousand and in the forty-
ninth year of Our Reign.

BY COMMAND:

Sgd: *Michael G. Baker*
Provincial Secretary
Minister of Justice and Attorney General

N.S. Reg. 133/2000
Made: July 21, 2000
Filed: July 25, 2000
Direct Sellers Regulations

Order in Council 2000-379 made July 21, 2000
Amendment to regulations made by the Governor in Council
pursuant to Section 35
of the *Direct Sellers' Regulation Act*

The Governor in Council on the report and recommendation of the Minister of Business and Consumer Services dated June 28, 2000, and pursuant to Section 35 of Chapter 129 of the Revised Statutes of Nova Scotia, 1989, the *Direct Sellers' Regulation Act*, is pleased to amend the regulations respecting direct sellers made by Order in Council 76-1186, dated October 12, 1976, as amended, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective on and after September 1, 2000.

Schedule "A"

**Amendments to regulations respecting direct sellers
made by the Governor in Council pursuant to Section 35 of
Chapter 129 of the Revised Statutes of Nova Scotia, 1989,
the *Direct Sellers' Regulation Act***

- 1 Subsection 1(2) of the regulations respecting direct sellers made by the Governor in Council by Order in Council 76-1186 dated October 12, 1976, is repealed and the following subsection substituted:
 - (2) For the purposes of the Act and these regulations
 - (a) "hawker" means a person who holds a municipal permit authorizing the sale of merchandise at a street or road location, where the goods and money are exchanged at the time of the sale;
 - (b) "multi-level marketing distributor" means a person who enters into a multi-level marketing plan agreement with a multi-level marketing wholesaler to sell goods provided by the multi-level marketing wholesaler to consumers by direct sale and is deemed to be a salesperson under this Act;
 - (c) "multi-level marketing wholesaler" means a person who provides goods to a multi-level marketing distributor under the terms of a multi-level marketing plan for direct sale to consumers;

- (d) “multi-level marketing plan” means a plan for the supply of a product whereby a participant in the plan receives compensation for the supply of the product to another participant in the plan who, in turn, receives compensation for the supply of the same or another product supplied by the multi-level marketing wholesaler to other participants in the plan;
- 2 Subsection 2(1) of the regulations is amended by
- (a) striking out the period at the end of clause (b) and substituting a semi-colon; and
- (b) adding the following clauses immediately following clause (b):
- (c) a student selling goods on behalf of or under the auspices of the school that they attend and for which they receive no direct compensation; or
- (d) a hawker.
- 3 Subsection 2(2) of the regulations is repealed and the following subsections are substituted:
- (2) Subsections 20(1), (2) and (3), clause 21(1)(a), subsection 24(1) and Section 25 of the Act and Section 22 of these regulations do not apply to a direct sales contract where the consideration to be provided by the purchaser is of a value of \$100.00 or less, save and except for a direct sales contract respecting hearing aids.
- (3) The permit requirements for a salesperson contained in the Act and these regulations do not apply to a salesperson where all of the goods and services offered for sale by the direct seller whom the salesperson represents are sold at a cost of less than \$100.00 per item.
- (4) Where any of the goods and services offered for sale by the direct seller whom a salesperson represents are sold at a cost of \$100.00 or more per item, the salesperson shall be exempt from the requirement to hold a permit under Section 5 of the Act, where the direct seller whom the salesperson represents
- (a) has held a permit in Nova Scotia for a period of 5 consecutive years immediately preceding the date of the application;
- (b) has not been the subject of significant consumer complaints addressed to the Department or to other jurisdictions where the direct seller operates or has operated;
- (c) has not engaged in direct selling without a permit in Nova Scotia or elsewhere;

- (d) has demonstrated compliance with legislative and regulatory requirements in Nova Scotia and other jurisdictions, and
 - (e) submits a written application for an exemption on behalf of the salesperson to the Registrar at least 60 days prior to the expiry date of the direct seller's permit.
- (5) Subsections (3) and (4) do not apply to a direct salesperson or direct seller engaged in the sale of hearing aids.
- (6) The Registrar may issue an exemption permit for a salesperson who is exempt pursuant to subsection (4).
- (7) A direct seller who has been issued an exemption permit pursuant to subsection (6) for any of the salespersons who represent the direct seller shall
- (a) file with the Registrar quarterly a list of the names of exempt salespersons to whom identification cards have been issued; and
 - (b) submit the following fees to the Registrar:
 - (i) at the time the initial exemption is granted, a fee calculated by multiplying the number of salespersons included in that exemption by \$5.00;
 - (ii) at the time a salesperson's name is first added to the quarterly list, \$5.00; and
 - (iii) at the time of application for renewal of the direct seller's permit, a fee calculated by multiplying the total number of salespersons listed on the renewal application by \$5.00.

4 Section 7 of the regulations is repealed and the following Section substituted:

Identification cards

7 (1) A direct seller shall provide each salesperson who represents the direct seller and who is not required to hold a salesperson's permit with an identification card containing the following information:

(a) a preface that states as follows:

The bearer of this card is permitted to engage in direct sales activity regulated by the Nova Scotia *Direct Sellers' Regulation Act* on behalf of

name of direct seller

(b) the name and address of the salesperson;

- (c) the direct seller’s address, business permit number issued under the Act and phone number;
- (d) the signature of the direct seller, or if the direct seller is a corporation, an officer authorized to sign on behalf of the corporation;
- (e) the issue date of the card and the expiry date of the direct seller’s license [permit].

(2) When a salesperson ceases to represent a direct seller, the salesperson shall return the identification card to the direct seller.

5 Section 8 of the regulations is amended by striking out “After October 1, 1976,” wherever it appears.

6 Subsection 9(1) of the regulations is repealed and the following subsection substituted:

- [9] (1) The fee payable to the Registrar upon application for the granting or renewal of a direct seller's permit for 1 year or part thereof is
- (a) where there are no salespersons or where up to 5 salespersons will be engaged. \$100.00
 - (b) where more than 5 and up to 10 salespersons will be engaged. \$200.00
 - (c) where more than 10 salespersons will be engaged. \$300.00

7 Section 10 of the regulations is repealed and the following Section substituted:

10 The fee payable to the Registrar upon application for the granting or renewal of a salesperson’s permit is as follows:

When application made	Fee
within the 1 st quarter (the first 3 months) from the date of issue of direct seller’s permit	\$40.00
within the 2 nd quarter (months 4 to 6) from the date of issue of direct seller’s permit	\$30.00
within the 3 rd quarter (months 7 to 9) from the date of issue of direct seller’s permit	\$20.00
within the 4 th quarter (months 10 to 12) from the date of issue of direct seller’s permit	\$10.00

8 Section 12 of the regulations is amended by striking out “applications of all salespersons and all fees by certified cheque or money order payable to the Department of Finance” and substituting “to the Registrar applications of all salespersons and all fees.”

9 Subsection 13(2) is repealed and the following subsections substituted:

[13] (2) The amount of the bond required under subsection (1) shall be calculated in the following manner:

For 1st year under permit: $A \times B \times C = \text{bond amount}$

For renewal of permits: $A \times B \times D = \text{bond amount}$

Where:

A = average sale amount

B = average number of sales per salesperson in a 30-day period

C = the number of salespersons anticipated to represent the direct seller in the 1st year under permit

D = actual number of salespersons listed on the renewal application

(3) Despite subsection (2),

(a) the minimum amount of the bond shall be \$2500.00 and the maximum amount shall be \$25 000.00 for direct sellers with an average sale amount of \$100.00 or less; and

(b) the maximum amount of a bond shall be \$250 000.00 for direct sellers with an average sale amount exceeding \$100.00.

(4) The Registrar may increase or decrease the amount of the bond at any time based on the following:

(a) past compliance with the requirements of the Act and regulations by the direct seller or the principals of the direct seller;

(b) the length of time the direct seller has been operating under a permit in Nova Scotia;

(c) whether in the opinion of the Registrar the amount of the bond determined by the formula is inappropriate due to

(i) the high price of the items being sold;

(ii) the high numbers of salespersons; or

(iii) the volume of sales.

10 Section 18 is renumbered as subsection 18(1) and the following subsection is added immediately after subsection (1):

[18] (2) Subject to Section 19, where

- (a) a direct seller's permit has been terminated for 1 year; and
- (b) the Registrar has not received notice pursuant to subsection (1) of the termination of the bond in which the direct seller or salesperson is named,

the bond shall be deemed to be terminated as of the date of the 1st anniversary of the termination of the direct seller's permit.

11 Section 22 of the regulations is repealed and the following Section substituted:

22 (1) Subject to subsection 2(2), every direct sales contract shall be in writing and shall contain

- (a) the name and address of the purchaser;
- (b) the direct seller's name, business address and telephone number;
- (c) the salesperson's name and signature;
- (d) the date and place of the contract;
- (e) an itemized price of the goods or services, terms of payment and the total cost of the contract;
- (f) a description of the goods and services sufficient to identify them;
- (g) a statement of the cancellation rights as provided in subsection (2);
- (h) the delivery date of the goods or services if not provided on the transaction date;
- (i) the completion date for providing the services if applicable;
- (j) where credit is extended, a statement of any security taken and the cost of borrowing as required by the *Consumer Protection Act*;
- (k) a description of any goods taken in trade and the value given to the goods;
- (l) the signature of the purchaser.

- (2) The statement of cancellation rights referred to in clause (1)(g) shall be in the following form:

Statement of Cancellation Rights

You may cancel this contract from the day you enter into the contract until 10 days after you receive a copy of the contract or statement of cancellation rights. You do not need a reason to cancel.

If you do not receive the goods or services within 30 days of the date stated in the contract, you may cancel this contract within one year of the contract date. You lose that right if you accept delivery after the 30 days. There are other grounds for extended cancellation. For more information you may contact the provincial/territorial consumer affairs office.

If you cancel this contract, the seller has 15 days to refund your money and any trade-in or the cash value of the trade-in. You must then return the goods.

To cancel, you must give notice of cancellation to the address below or in the contract. You must give notice of cancellation by a method that will allow you to prove that you gave notice, including fax, mail or personal delivery.

Address for Notice: [Include name, business address, phone number if this statement of cancellation rights is a document separate from the contract.]

- (3) Where the statement of cancellation rights is not on the face of the contract, its location shall be clearly indicated on the face of the contract.
- (4) The heading of the statement of cancellation rights shall be in not less than 12-point bold type and the remainder of the information in not less than 10-point type.

12 Section 23 of the regulations is repealed and the following Section substituted:

- 23** (1) Where a purchaser and a direct seller have entered into a direct sales contract in the amount of \$250.00 or less and a notice of cancellation of the contract in accordance with clause 21(1)(a) of the Act has been given and all or part of the services have been delivered or all or part of the goods have been consumed, damaged or altered, the direct seller shall have the right to retain 25% of the purchase price in lieu of damages.
- (2) A direct seller may apply to the courts for compensation if
- (a) an amount greater than 25% is requested; or

(b) the original contract price exceeded \$250.00 and compensation is requested by the direct seller.

(3) Subsections (1) and (2) do not apply to the cancellation of a contract due to a manufacturer's defect.

13 Section 25 of the regulations is repealed.

N.S. Reg. 134/2000

Made: July 27, 2000

Filed: July 28, 2000

Livestock Health Services Regulations

Order in Council 2000-385 made July 27, 2000
Amendment to regulations approved by the Governor in Council
pursuant to clause 8(i)
of the *Livestock Health Services Act*

The Governor in Council on the report and recommendation of the Minister of Agriculture and Marketing dated June 28, 2000, pursuant to clause 8(i) of Chapter 262 of the Revised Statutes of Nova Scotia, 1989, the *Livestock Health Services Act*, is pleased to approve an amendment to the regulations made by the Minister of Agriculture and Marketing and approved by Order in Council 98-216 dated May 19, 1998, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective October 1, 2000.

Schedule "A"

Amendment to the *Livestock Health Service Regulations* made by the Governor in Council pursuant to Section 8 of Chapter 262 of the Revised Statutes of Nova Scotia, 1989, the *Livestock Health Services Act*

Clause 2(c) of the *Livestock Health Services Regulations* made by the Governor in Council by Order in Council 98-216 dated May 19, 1998, is repealed and the following clause substituted:

- (c) "eligible livestock owner" means a farm business that is currently registered under the *Farm Registration Act* and that
- (~~vi~~) [(i)] owns livestock as defined in clause 2(c) of the Act that are used for farming purposes, or
- (ii) owns game animals as defined in clause 2(i) of the *Game Farming Regulations* made pursuant to the *Wildlife Act*;

N.S. Reg. 135/2000

Made: July 27, 2000

Filed: July 28, 2000

Licensed Practical Nurses Regulations

Order in Council 2000-387 made July 27, 2000
Amendment to regulations made by the Governor in Council
pursuant to Section 18
of the *Licensed Practical Nurses Act*

The Governor in Council on the report and recommendation of the Minister of Health dated June 21, 2000, and pursuant to Section 18 of Chapter 319 of the Revised Statutes of Nova Scotia, 1989, the *Licensed Practical Nurses Act*, is pleased to amend the regulations respecting licensed practical nurses made by Order in Council 96-919 dated December 17, 1996, in the manner set forth in Schedule "A" attached to and forming part of the report and recommendation, effective January 1, 2000.

Schedule "A"

**Amendments to the regulations respecting licensed practical nurses
made by the Governor in Council pursuant to Section 18 of
Chapter 319 of the Revised Statutes of Nova Scotia, 1989,
the *Licensed Practical Nurses Act***

- 1 Clause 5(3)(c) of the regulations respecting licensed practical nurses made by the Governor in Council by Order in Council 96-919 dated December 17, 1996, is amended by striking out "Armed".
- 2 The regulations are further amended by adding the following Section after Section 5:

Licensing/application

- 6 The Board shall register or cause to be licensed as a licensed practical nurse any person who
 - (a) has passed the examination for licensing prescribed by the Board;
 - (b) has paid the annual licence fee prescribed by the Board pursuant to subsection 9(1);
 - (c) is a member of the Licensed Practical Nurses Association; and
 - (d) fulfills at least one of the following requirements:
 - (i) successful completion, in the 5-year period immediately preceding their application for registration or licensing, of a program for licensed practical nurses approved by the Board pursuant to Section 3;

- (ii) holding of a licence in good standing as a licensed practical nurse or equivalent designation in another province, state or country, and compliance with the guidelines for licensing approved by the Board;
- (iii) qualification as a Medical Assistant in the Canadian Forces as specified in clause 5(3)(c) in the 5-year period immediately preceding their application for registration or licensing;
- (iv) worked at least 1000 hours in the 5 years immediately preceding their application for registration or licensing in a work situation approved by the Board; or
- (v) successful completion, in the 5-year period immediately preceding their application for registration or licensing, of a refresher program as prescribed by the Board.