



HOUSE USE ONLY

CHAIR:

WITH / WITHOUT

3rd SESSION, 65th GENERAL ASSEMBLY
Province of Prince Edward Island
66 ELIZABETH II, 2017

BILL NO. 104

Public Intervener Act

Jamie Fox
MLA

PRIVATE MEMBER'S BILL

Michael D. Fagan
Queen's Printer
Charlottetown, Prince Edward Island



PUBLIC INTERVENER ACT

BILL NO. 104**2017**

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

1. Definitions

In this Act,

- (a) “**Commission**” means the Island Regulatory and Appeals Commission (IRAC);
- (b) “**Minister**” means the Minister of Justice and Public Safety and Attorney General;
- (c) “**Public Intervener**” means the Public Intervener appointed pursuant to subsection 3(1).

2. Administration

The Minister is responsible for the administration of this Act.

3. Appointment of Public Intervener

- (1) The Lieutenant Governor in Council shall appoint a barrister and solicitor who is a member in good standing of the Law Society of Prince Edward Island as the Public Intervener.

Civil Service Act applies

- (2) The *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8, applies to the Public Intervener.

Delegation

- (3) The Public Intervener may, in writing, delegate any powers and duties of the Public Intervener under this Act, the regulations or another enactment to a barrister and solicitor employed within the Department of Justice and Public Safety.

Terms and conditions

- (4) The Public Intervener may impose on a delegation made under subsection (3) those terms and conditions that the Public Intervener considers appropriate.

Contract for services

- (5) The Public Intervener may contract for services that he or she considers necessary to carry out the duties or exercise the powers of the Public Intervener.

4. Acting Public Intervener

- (1) In the case of the temporary absence of the Public Intervener or inability of the Public Intervener to act, the Minister may, in writing, appoint a barrister and solicitor employed within the Department of Justice and Public Safety as an acting Public Intervener.

Terms and conditions

- (2) The Minister may impose on an appointment made under subsection (1) those terms and conditions that the Minister considers appropriate.

Powers and duties

- (3) An acting Public Intervener has all the powers and duties of the Public Intervener under this Act, the regulations and any other enactment.

5. Intervention, proceedings under specified Acts

- (1) The Public Intervener shall intervene in a proceeding of the Commission initiated under any of the following Acts and any other prescribed Act and, when intervening, shall make those representations that the Public Intervener considers to be in the public interest:

- (a) *Electric Power Act* R.S.P.E.I. 1988, Cap. E-4;
- (b) *Environmental Protection Act* R.S.P.E.I. 1988, Cap. E-9;
- (c) *Heritage Places Protection Act* R.S.P.E.I. 1988, Cap. H-3.1;
- (d) *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11;
- (e) *Petroleum Products Act* R.S.P.E.I. 1988, Cap. P-5.1;
- (f) *Planning Act* R.S.P.E.I. 1988, Cap. P-8;
- (g) *Rental of Residential Property Act* R.S.P.E.I. 1988, Cap. R-13.1;
- (h) *Roads Act* R.S.P.E.I. 1988, Cap. R-15;
- (i) *Unsightly Property Act* R.S.P.E.I. 1988, Cap. U-5;
- (j) *Water and Sewage Act* R.S.P.E.I. 1988, Cap. W-2.

Intervention, proceedings under other Acts

- (2) The Public Intervener may intervene in a proceeding of the Commission initiated under an Act not listed in subsection (1) or not prescribed, and, when intervening, shall make those representations that the Public Intervener considers to be in the public interest.

Duty to advocate in the public interest

- (3) During a proceeding of the Commission, the Public Intervener shall advocate in the public interest and does not represent the interests of or advocate on behalf of a party to the proceeding, a government department or agency or other interested group.

Powers during a proceeding

- (4) During a proceeding of the Commission, the Public Intervener may present evidence, call witnesses, cross-examine witnesses and make submissions and representations to the Commission.

Resolution of procedural or evidentiary matters

- (5) The Public Intervener shall not agree to the settlement of a matter that is within the exclusive jurisdiction of the Commission to determine, but may agree to the resolution of a procedural or evidentiary matter that he or she considers reasonable and consistent with the duties of the Public Intervener.



6. Notification of Public Intervener

- (1) When a proceeding of the Commission is initiated, the Commission shall notify the Public Intervener.

Materials

- (2) On request, the Commission shall forward to the Public Intervener a copy of all materials filed with the Commission with respect to a proceeding.

Party to proceedings

- (3) The Public Intervener is a party to all proceedings referred to in subsection 5(1) and any proceedings in which the Public Intervener chooses to intervene pursuant to subsection 5(2).

7. Annual report

- (1) The Public Intervener shall file an annual report with the Minister with respect to the activities of the Public Intervener by June 30 of the following year.

Tabling of report

- (2) On receiving the annual report of the Public Intervener, the Minister shall table the report before the Legislative Assembly.

8. Regulations

The Lieutenant Governor in Council may make regulations

- (a) conferring powers or imposing duties on the Public Intervener;
- (b) prescribing other Acts for the purposes of subsection 5(1).

EXPLANATORY NOTES

SECTION 1 defines terms used in this Act.

SECTION 2 provides that the Minister of Justice and Public Safety and Attorney General is responsible for the administration of this Act.

SECTION 3 provides for the appointment of a barrister and solicitor in good standing with the Law Society of Prince Edward Island as the Public Intervener. It provides for the application of the *Civil Service Act* to the Public Intervener. It provides for the Public Intervener to delegate his or her powers and duties, impose terms and conditions on a delegation and contract for necessary services.

SECTION 4 provides for the Minister to appoint an acting Public Intervener where the Public Intervener is absent or unable to act and impose terms and conditions on the appointment. It provides that the acting Public Intervener has all the powers and duties of the Public Intervener.

SECTION 5 requires the Public Intervener to intervene in proceedings of the Commission initiated under Acts specified in the section and prescribed by regulations. It permits the Public Intervener to intervene in proceedings initiated under Acts not otherwise specified or prescribed. It requires the Public Intervener to advocate in the public interest and sets out powers of the Public Intervener in proceedings, such as presenting evidence and examining witnesses.

SECTION 6 requires the Commission to notify the Public Intervener when a proceeding of the Commission is initiated and provide the Public Intervener, on request, with a copy of all materials filed with respect to the proceeding. It provides that the Public Intervener is a party to all proceedings he or she is required to intervene in under subsection 5(1) and chooses to intervene in pursuant to subsection 5(2).

SECTION 7 requires the Public Intervener to file an annual report with the Minister, who in turn is required to table it before the Legislative Assembly.

SECTION 8 provides for the Lieutenant Governor in Council to make regulations respecting specified matters.

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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	December 12, 2017
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Francis (Buck) Watts, Speaker

Charles H. MacKay, Clerk

Jamie Fox
MLA

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