



# THE NEWFOUNDLAND AND LABRADOR GAZETTE

## PART I

**PUBLISHED BY AUTHORITY**

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ST. JOHN'S, FRIDAY, MARCH 28 2003

No.13

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### PROCLAMATION

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

EDWARD ROBERTS  
Lieutenant Governor

KELVIN L. PARSONS  
Minister of Justice

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING;

#### A PROCLAMATION

WHEREAS Section 2 of the *Public Inquiries Act*, provides in part, as follows:

Where the Lieutenant Governor in Council considers it expedient to make an enquiry into a matter connected with ...the administration of justice, ... or into other matters which he or she considers to be for the public good, the Lieutenant Governor in council may by commission under the Great Seal appoint the person or persons, called the commissioner or commissioners, that he or she may select to hold an enquiry.

AND WHEREAS the Lieutenant Governor in Council is of the opinion that the arrests and prosecutions of Gregory Parsons and Randy Druken have raised a number of questions relating to the administration of criminal justice in Newfoundland and Labrador, and are of sufficient public importance to justify an inquiry.

AND WHEREAS the Lieutenant Governor in Council is of the opinion that the detention of Ronald Dalton for eight years before the integrity of his conviction was brought on for a hearing in the Supreme Court of Newfoundland and Labrador, Court of Appeal, has raised a number of questions about the administration of justice in the province and is of sufficient public importance to justify an inquiry.

Gregory Parsons

AND WHEREAS Catherine Carroll was murdered on or about 2 January, 1991.

AND WHEREAS following an investigation conducted by the Royal Newfoundland Constabulary on 10 January 1991, Gregory Parsons was arrested and charged with the murder of Catherine Carroll, and,

- (a) on 18 January 1991 Gregory Parsons was granted judicial interim release;
- (b) on 15 February 1994 Gregory Parsons was convicted of second degree murder in the death of Catherine Carroll and on 17 February 1994 was sentenced to life without parole for 15 years;
- (c) on 25 March 1994 Gregory Parsons was granted judicial interim release by the Supreme Court of Newfoundland and Labrador, Court of Appeal, pending his Appeal of the conviction of second degree murder;
- (d) on 3 December 1996 the Supreme Court of Newfoundland and Labrador, Court of Appeal, overturned Gregory Parsons' conviction of second degree murder in the death of Catherine Carroll and ordered a new trial;
- (e) in August 1997 certain exhibits used in the trial of Gregory Parsons were released for DNA testing;
- (f) on 26 January 1998 the results of the DNA testing confirmed that the DNA found at the murder scene was not that of Gregory Parsons;
- (g) on 2 February 1998 a Stay of Proceedings was entered on the murder charge against Gregory Parsons;
- (h) on 5 November 1998 Gregory Parsons was acquitted of the charge that he had murdered Catherine Carroll;
- (i) on 5 November 1998, after the Crown called no evidence, the then Minister of Justice and Attorney General, the Honourable Chris Decker, publically apologized to Gregory Parsons and his family and stated that Gregory Parsons had no involvement in the murder of Catherine Carroll. Retired Justice Nathaniel Noel was appointed to investigate the circumstances of Mr. Parsons' arrest and prosecution;
- (j) on 8 January 1999 Gregory Parsons commenced a civil action against Government and, as a result, Justice Noel suspended his investigation;
- (k) on 28 February 2002 Government announced that it had reached an agreement to compensate Gregory Parsons for his arrest and conviction in the death of Catherine Carroll; and
- (l) Brian Doyle was subsequently convicted of second degree murder in the death of Catherine Carroll.

Randy Druken

AND WHEREAS Brenda Young was murdered on or about 12 June 1993.

AND WHEREAS following an investigation by the Royal Newfoundland Constabulary, on 20 August 1993, Randy Druken was charged with the murder of Brenda Young, and

- (a) on 18 March 1995, following a trial before a judge and jury, Randy Druken was convicted of second degree murder in the death of Brenda Young and on 14 June 1995 was sentenced to a period of life imprisonment with no eligibility of parole for 14 years;
- (b) on 30 June 1995 Randy Druken caused a Notice of Appeal to be filed with the Supreme Court of Newfoundland and Labrador, Court of Appeal;
- (c) on 17 July 1999, following an Application to admit fresh evidence, the Supreme Court of Newfoundland and Labrador, Court of Appeal, overturned the conviction for second degree murder and ordered a new trial;
- (d) on 30 August 2000 the Crown entered a Stay a Proceedings of the charge against Randy Druken in the death of Brenda Young. This Stay expired on 30 August 2001 and to date no further charges have been laid against anyone in the death of Brenda Young; and
- (e) on 29 August 2002 Randy Druken commenced civil proceedings against Government alleging police negligence and malicious prosecution.

Ronald Dalton

AND WHEREAS at approximately 1:15 a.m. on 16 August 1988, the wife of Ronald Dalton, Brenda Dalton, was declared dead.

AND WHEREAS following an investigated by the Royal Canadian Mounted Police on 17 August 1988 Ronald Dalton was arrested and charged with the murder of Brenda Dalton, and

- (a) on 15 December 1989, following a trial before a judge and jury, Ronald Dalton was convicted of second degree murder in the death of Brenda Dalton;
- (b) on 27 December 1989 Ronald Dalton caused a Notice of Appeal of his murder conviction to be filed with the Supreme Court of Newfoundland and Labrador, Court of Appeal;
- (c) Ronald Dalton's Appeal was heard by the Court of Appeal some eight years later on 8 and 9 January, 1998;
- (d) on 29 May 1998 the Court of Appeal allowed Ronald Dalton's Appeal, overturned his murder conviction and ordered a new trial on the murder charge. In ordering the new trial the Court of Appeal expressed concern over the delay between the filing of the Notice of Appeal and its eventual perfection. In its Reasons for Judgment the court stated:

Undoubtedly those charged with the administration of justice and the provision of legal services in this Province will feel constrained in due course, when satisfied that collateral inquiry will not impeded the realization of justice on retrial, to receive explanation why a citizen languished in prison for eight years before substantial challenges to the justification of his presence there were brought before this court for hearing.

- (e) following a retrial before judge and jury, on 24 June 2000 Ronald Dalton was acquitted of the murder of Brenda Dalton; and
- (f) on 30 November 2001 Ronald Dalton commenced civil proceedings against Dr. Charles Hutton, alleging that Dr. Hutton was negligent in his opinion that Brenda Dalton had died of strangulation. Government is joined as Dr. Hutton's employer.

NOW THEREFORE by Commission under the Great Seal and under the authority of the *Public Inquiries Act*, the Lieutenant Governor in Council appoints the Right Honourable Antonio Lamer, P.C., a Commissioner.

AND BE IT ORDERED that the Commissioner:

- (a) inquire into the conduct of the investigation into the death of Catherine Carroll, and the circumstances surrounding the resulting criminal proceedings commenced against Gregory Parsons for the murder of Catherine Carroll;
- (b) inquire into the conduct of the investigation in the death of Brenda Young, and the circumstances surrounding the resulting criminal proceedings commenced against Randy Druken for the murder of Brenda Young;
- (c) advise on whether, in the circumstances of his case, Randy Druken should receive financial compensation from Government and if so, the appropriate amount of such compensation;
- (d) inquire into why Ronald Dalton's Appeal of his murder conviction in the death of Brenda Dalton took eight years before it was brought on for a hearing in the Newfoundland and Labrador Court of Appeal; and
- (e) advise on whether Ronald Dalton should receive financial compensation from Government for the eight years in which he awaited the perfection of his Appeal, and if so, the appropriate amount of such compensation.

AND IT IS FURTHER ORDERED THAT the Commissioner has the power to summon witnesses, and to require the witnesses to give evidence orally or in writing upon oath or affirmation, and to produce the documents and things that may be considered necessary to the full investigation of the matters referred to in the commission and have all the powers of an "investigating body" under the *Public Investigations Evidence Act*.

AND THAT the Commissioner report his findings on these matters, including any findings respecting practices or systemic issues that may have contributed to or influenced the course of the investigation or resulting prosecution in the case of Gregory Parsons and Randy Druken, or in the case of Ronald Dalton, the length of time before the hearing of his Appeal, and make such recommendations as he considers advisable relating to the current administration of criminal justice in the Province of Newfoundland and Labrador.

AND THAT the Commissioner perform his duties without expressing any conclusion or recommendation regarding the civil or criminal responsibility of any person or organization and without permitting the enquiry to become a retrial of Gregory Parsons, Randy Druken or Ronald Dalton.

AND THAT the Commissioner complete this inquiry and deliver his final report containing his findings, conclusions and recommendations to the Attorney General on or before December 31, 2004 and give the Attorney General such interim reports as he considers appropriate to address urgent matters in a timely fashion in a form appropriate for release to the public which release will be subject to the *Freedom of Information Act* and other relevant laws.

AND THAT to the extent the Commissioner considers advisable he rely on any transcript or record of pre-trial, trial or appeal proceedings before any Court in relation to the proceedings and prosecution and on such other related materials as he considers relevant to his duties.

AND THAT reasonable legal fees that may be incurred from time to time to assist Gregory Parsons, Randy Druken and Ronald Dalton during those phases of the inquiry relevant to each, should standing at the inquiry be granted, in an amount and under such terms as may be determined by the Deputy Attorney General in accordance with the existing policies and practices of the Government of Newfoundland and Labrador, the account of which will be subject to taxation by a taxation or judicial officer appointed by the Commissioner.

AND FURTHER THAT the Lieutenant Governor in Council may engage the services of the counsel, accountants, engineers, technical advisers, or other experts, clerks, reporters and assistants that may be considered necessary to help the Commissioner in the inquiry.

WITNESS: Our trusty and well-beloved the Honourable Edward Roberts, one of Her Majesty's Counsel learned in the law, Lieutenant Governor in and for Our Province of Newfoundland and Labrador.

AT OUR GOVERNMENT HOUSE in Our City of St. John's this 20<sup>th</sup> day of March, in the year of Our Lord two thousand and three in the fifty-second year of Our Reign.

BY COMMAND,

ROBERT F. SMART  
Deputy Registrar General

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RCMP/RNC

**ATTORNEY GENERAL OF NEWFOUNDLAND  
ANNUAL REPORT  
SECTION 195 CRIMINAL CODE OF CANADA**

This report covers the period January 1, 2002 to December 31, 2002

**Section 195(5)(a)**

- (a) The list of designated agents who made applications in accordance with Section 185 C.C.C.

- (i) Ms. Pamela Goulding
- (ii) Ms. Kathleen Healey

**Section 195(2)**

|     |   |   |
|-----|---|---|
| (a) | The number of applications made for authorizations  |   |
|     | (i) 185 C.C.C.  | 1 |
|     | (ii) 188 C.C.C.   | 0 |
| (b) | The number of applications made for renewals of authorizations  | 1 |
| (c) | The number of applications granted:   |   |
|     | (i) Original authorizations 185   | 0 |
|     | (ii) Original authorizations 188  | 0 |
|     | (iii) Renewals of authorizations 185  | 1 |
|     | The number of applications refused under  |   |
|     | (i) 185   | 1 |
|     | (ii) 188  | 0 |
| (d) | The number of persons identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of Newfoundland in respect of:     |   |
|     | (i) An offence specified in the authorization   | 0 |
|     | (ii) An offence other than an offence specified in such an authorization but in respect of which an authorization may be given  | 0 |
|     | (iii) An offence other than an offence specified in such an authorization for which no such authorization may be given  | 0 |
| (e) | The number of persons not identified in an authorization against whom proceedings were commenced at the instance of the Attorney General of Newfoundland in respect of: |   |
|     | (i) An offence specified in such an authorization   | 0 |
|     | (ii) An offence other than an offence specified in such an authorization but in respect of which an authorization may be given  | 0 |
|     | (iii) An offence other than an offence specified in such an authorization for which no such authorization may be given  | 0 |

|     |   |         |
|-----|---|---------|
| (f) | The average period for which authorizations were given and for which renewals thereof were granted  |         |
|     | S. 185 60 days  | 60 days |
| (g) | The number of authorizations, by virtue of one or more renewals thereof, were valid   |         |
|     | (i) for more than 60 days   | 0       |
|     | (ii) for more than 120 days   | 0       |
|     | (iii) for more than 180 days  | 0       |
|     | (iv) for more than 240 days   | 0       |
| (h) | The number of notifications given pursuant to Section 196   | 0       |
| (i) | The offences in respect of which authorizations were given, specifying the number of authorizations given in respect of each such offence   |         |
|     | (i) S. 235 C.C.C.   | 1       |
|     | (ii) S. 240 C.C.C.  | 1       |
| (j) | A description of all classes of places specified in authorizations and the number of authorizations in each such class of place specified   |         |
|     | (i) Residence, permanent  | 8       |
|     | (ii) Residence, temporary   | 1       |
|     | (iii) Business premises   | 0       |
|     | (iv) Vehicles   | 7       |
|     | (v) Outbuildings (Shed)   | 2       |
| (k) | A general description of the methods of interception involved in each interception under an authorization   |         |
|     | (i) Telecommunications  |         |
|     | (ii) Oral Communications  |         |
| (l) | The number of persons arrested whose identity became known to a Peace Officer as a result of an interception under an authorization   |         |
|     | (i) Number of persons   | 0       |
| (m) | The number of criminal proceedings commenced at the instance of the Attorney General of Newfoundland in which private communication obtained by interception under an authorization |         |

were adduced in evidence and the number of such proceedings that resulted in a conviction

- |      |   |   |
|------|---|---|
| (i)  | Criminal proceedings adduced in evidence  | 0 |
| (ii) | Resultant convictions   | 0 |
| (n)  | The number of criminal investigations in which information obtained as a result of the interception was used although the private communications were not adduced in evidence in criminal proceedings commenced at the instance of the Attorney General of Newfoundland as a result of investigations |   |
| (i)  | Intercepted information used but not adduced  | 0 |

**Section 195(3)**

Other Information

- |     |   |   |
|-----|---|---|
| (a) | The number of prosecutions commenced against officers or servants of Her Majesty in Right of Canada or members of the Canadian Forces for offences under Section 184 or Section 193 |   |
| (i) | Number of prosecutions  | 0 |

No changes to report from previous years.

JOHN R. CUMMINGS  
Deputy Minister of Justice  
and Deputy Attorney General

Mar 28

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**MINERAL ACT**

NOTICE

Published in accordance with regulation 62 of the Mineral Regulations.

Mineral rights to the following mineral licences have reverted to the Crown:

|   |  |
|---|--|
| Mineral Licence held by situate near on map sheet | 7245M<br>Archean Resources Ltd.<br>Webb Hill<br>14C/13 |
|---|--|

|   |  |
|---|--|
| Mineral Licence held by situate near on map sheet | 8032M<br>Archean Resources Ltd.<br>Anaktalik Brook<br>14D/ 8, 14D/ 9 |
|---|--|

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Mineral Licence 7505M  
held by Archean Resources Ltd.  
situate near Tasiyuyaksuk Brook  
on map sheet 14D/ 9

Mineral Licence 7836M  
held by Burridge & Critch  
situate near New Pelican, Avalon Peninsula  
on map sheet 1N/14

Mineral Licence 7839M  
held by Albert Stone  
situate near Lamaline, Burin Peninsula  
on map sheet 1L/13

Mineral Licence 8318M  
held by David Osmond  
situate near Indian Pond, Central Nfld  
on map sheet 12H/ 7, 12H/ 8

Mineral Licence 8320M  
held by David Osmond  
situate near Indian Pond, Central Nfld  
on map sheet 12H/ 8

Mineral Licence 8325M  
held by Vincent D. Roche  
situate near Wild Cove, Avalon Peninsula  
on map sheet 1K/13

A portion of licence 8462M  
held by Cornerstone Resources Inc.  
situate near Trinity Pond, Eastern Nfld  
on map sheet 2C/ 6  
more particularly described in an application on file at Dept.  
of Mines and Energy

A portion of licence 8460M  
held by Cornerstone Resources Inc.  
situate near Trouty Pond, Eastern Nfld  
on map sheet 2C/ 6  
more particularly described in an application on file at Dept.  
of Mines and Energy

A portion of licence 8096M  
held by Cornerstone Resources Inc.  
situate near Port Rexton, Eastern Nfld  
on map sheet 2C/ 6  
more particularly described in an application on file at Dept.  
of Mines and Energy

A portion of licence 8097M  
held by Cornerstone Resources Inc.  
situate near Port Rexton, Eastern Nfld  
on map sheet 2C/ 6  
more particularly described in an application on file at Dept.  
of Mines and Energy

The lands covered by this notice except for the lands within  
Exempt Mineral Lands, the Exempt Mineral Lands being  
described in Consolidated Newfoundland and Labrador  
Regulations 1143/96 and Newfoundland and Labrador  
Regulation 71/98, 104/98, 97/2000 and 36/2001 and outlined  
on 1:50 000 scale maps maintained by the Department of  
Mines and Energy, will be open for staking after the hour of  
9:00 AM on the 32nd clear day after the date of this  
publication. Priority of applications submitted will be  
determined by a draw.

JIM HINCHEY, P.Geo  
Manager - Mineral Rights

File # 774:0436, 4138, 4140, 4216, 4323, 4465, 4469

Mar 28

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**LANDS ACT**

NOTICE OF INTENT

*Lands Act*, Chapter 36, S.N..L 1991

Notice is hereby given that the Town of  
Clareville, Newfoundland and Labrador intends to apply to  
the Department of Government Services and Lands, two  
months from the publication of this notice, to acquire title,  
pursuant to Section 7(2) (C) of the said Act, all that piece or  
parcel of Crown Land situated within fifteen metres of the  
waters of Andrews Pond, in the Electoral District of Trinity  
North, Newfoundland and Labrador, for the purpose of

constructing a water control structure at the outlet of Andrews Pond to allow for the controlled release of water into the town's water supply system and being more particularly described as follows:

*Bounded on the North by Crown Land*

*for a distance of 50 m;*

*Bounded on the East by Crown Land*

*for a distance of 150 m;*

*Bounded on the South by Crown Land*

*for a distance of 50 m;*

*Bounded on the West by Andrews Pond Shoreline*

*for a distance of 150 m;*

*and containing an area of*

*approximately 7500 square metres.*

Any person wishing to object to the application must file the objection, in writing, within one month from the date of publication of this notice, with reasons for it, to the Minister of Government Services and Lands, c/o Eastern Regional Lands Office, P. O. Box 8700, Mews Place, St. John's, NL, A1B 4J6.

For further information on the proposed application, please contact Kirk Peddle, P. Eng., SGE Acres Ltd., (709) 466-2685.

Mar 28

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# THE NEWFOUNDLAND AND LABRADOR GAZETTE

## PART II

### SUBORDINATE LEGISLATION FILED UNDER THE STATUTES AND SUBORDINATE LEGISLATION ACT

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### NEWFOUNDLAND AND LABRADOR REGULATIONS

**NLR 31/03**

**NLR 34/03**

**NLR 35/03**

**NLR 36/03**

**NLR 37/03**

**NLR 38/03**

**NLR 39/03**

**NLR 40/03**

**NLR 41/03**





**NEWFOUNDLAND AND LABRADOR  
REGULATION 31/03**

*Rules of the Supreme Court, 1986 (Amendment)  
under the  
Judicature Act*

*(Filed March 10, 2003)*

Under the authority of section 55 of the *Judicature Act*, the Rules Committee of the Trial Division makes the following rule.

Dated at St. John's, March 4, 2003.

Barry R. Sparkes, Q.C.  
Registrar of the Supreme Court  
Secretary, Rules Committee

**RULES**

*Analysis*

- |                                |   |
|--------------------------------|---|
| 1. Rule 37A Added              | 37A.05 Procedure at mediation sessions            |
| RULE 37A                       | 37A.06 Failure to attend and other non-compliance |
| COURT ORDERED MEDIATION        | 37A.07 Results of mediation                       |
| 37A.01 Definitions             | 37A.08 Costs of mediation                         |
| 37A.02 Purpose                 | 37A.09 Exemption                                  |
| 37A.03 Court ordered mediation |   |
| 37A.04 Mediators               | 2. Commencement                                   |

**1. The Rules of the Supreme Court, 1986 are amended by adding immediately after Rule 37 the following:**

**RULE 37A  
COURT ORDERED MEDIATION**

**Definitions**

**37A.01.** In this rule, unless the context otherwise requires, the following words and phrases shall have the following meanings:

- (a) "defence" means a statement of defence filed by a defendant pursuant to Rule 10 or, in the case of an application, the first affidavit, memorandum or other document filed by a respondent pursuant to Rule 29, and in the case of a matter involving multiple defendants or respondents, it means the first defence or document so filed;
- (b) "mediation" means a process of discussion between parties, and their solicitors if the parties are represented, under the direction of a neutral third party with a view to facilitating communication among the parties to assist them in reaching a mutually acceptable resolution of some or all of the issues in dispute;
- (c) "mediators list" means a list of names of mediators approved by the Registrar;
- (d) "mediation co-ordinator" means the person designated by the Registrar from time to time to administer the court ordered mediation process contemplated by this rule; and
- (e) "mediation order" means an order made under rule 37A.03.

**Purpose**

**37A.02.** The purpose of this rule is to establish a mechanism to provide mandatory mediation pursuant to court order in individual cases so as to reduce cost and delay in litigation and to facilitate the early and fair resolution of disputes.

**Court ordered mediation**

**37A.03.** (1) At any time following the filing of a defence, the court may, on the application of a party or on its own motion, order that the parties named in the order participate in mediation in accordance with the provisions of this rule.

(2) In considering whether to exercise the power conferred by rule 37A.03(1), the court shall take account of all the circumstances including:

- (a) the number of parties, the state of the pleadings and the complexity of the issues in the proceeding;
- (b) the nature of the legal issues raised in the proceeding;
- (c) the stage of the proceeding at the time the invocation of this rule is contemplated;
- (d) whether a party is not represented by a solicitor;
- (e) the financial resources of the parties; and
- (f) whether mediation, under this rule or otherwise, has been tried on a previous occasion.

(3) Unless otherwise ordered by the court:

- (a) a mediation ordered under this rule shall commence within 24 days of the date of the mediation order;
- (b) a party shall not be required to participate in mediation pursuant to any mediation order for a period longer than four hours in total; and
- (c) the costs of the mediator's services shall be borne equally by the parties.

(4) A mediation under this rule shall be conducted by:

- (a) a person named by the judge making the mediation order;
- (b) a mediator chosen by agreement of the parties from the mediators list, within 10 days of the date of the mediation order;

- (c) a person who is not on the mediators list, if the parties consent and if that person is chosen within 10 days of the date of the mediation order;
  - (d) a mediator assigned by the mediation co-ordinator from the mediators list in default of notification within that time by the parties of agreement pursuant to clause (b) or (c); or
  - (e) where the judge orders, two or more persons as co-mediators, and where ordered, any reference to the singular in this rule shall include the plural.
- (5) A mediation order may contain the following provisions:
- (a) the name of a specific person to conduct the mediation or an order that a mediator be selected as otherwise provided in rule 37A.03(4);
  - (b) the time within which the mediation shall commence;
  - (c) the maximum length of the mediation which shall be subject to agreement of the parties to extend the length of the mediation;
  - (d) the time within which the mediator's report shall be filed with the court;
  - (e) the responsibility for payment of costs associated with the mediation and the manner and timing of payment of those costs;
  - (f) a dispensation for a party from attendance at any mediation session;
  - (g) a requirement that some other person attend the mediation in place of or in addition to a party; and
  - (h) such other terms and conditions as, in the opinion of the judge, may be desirable to facilitate the mediation.
- (6) Unless the court otherwise orders, where a mediation order is made, all further proceedings are stayed until the mediator's report is filed pursuant to rule 37A.04, and any time limited for the doing of an

act or the filing of a document under the Rules shall be suspended for the period of the stay.

### **Mediators**

**37A.04.** (1) Every person who conducts a mediation under this rule, whether named on the mediators list or not, shall comply with this rule and every order made under this rule.

(2) All communications at a mediation session and the mediator's notes and records shall constitute without prejudice settlement discussions and shall be privileged from disclosure.

(3) The Registrar may remove from the mediators list the name of any mediator who does not comply with this rule or any order made under this rule.

(4) The Registrar may appoint a mediation advisory committee to provide advice as to matters which may arise under this rule.

### **Procedure at mediation sessions**

**37A.05.** (1) Following the appointment of a mediator, the parties shall expeditiously contact the mediator with a view to setting a time or times for the holding of the mediation.

(2) At least seven days before the first scheduled mediation session, each party shall provide to the mediator and each other party a brief statement of factual and legal issues in dispute, a summary of that party's interests and copies of all documents considered of central importance in the proceeding. The plaintiff shall also provide the mediator a copy of all relevant pleadings.

(3) If it is not practical to conduct a mediation session because a party fails to comply with rule 37A.05(2), the mediator may cancel the session and forthwith file with the mediation co-ordinator a certificate of non-compliance.

(4) The parties, and their solicitors if the parties are represented, shall attend the mediation session unless the court otherwise orders.

(5) If an insurer may be liable to satisfy all or a part of a judgment in the proceeding or to indemnify or reimburse a party for money

paid in satisfaction of all or a part of a judgment in the proceeding, a representative of the insurer and its solicitor shall attend the mediation session, unless the court otherwise orders.

(6) The parties, or persons representing parties in attendance at a mediation session, shall have authority to settle the dispute unless the Court otherwise orders.

(7) The procedure and methodology to be followed at a mediation session may vary according to the particular style and approach of the mediator who shall, after consultation with the parties, adopt an approach which in his or her opinion is best calculated to facilitate the purposes of the mediation and otherwise complies with the requirements of this rule.

#### **Failure to attend and other non-compliance**

**37A.06.** (1) If it is not practical to conduct a scheduled mediation session because a party fails to attend within 30 minutes of the time scheduled for the commencement of the session, unless the parties in attendance agree otherwise, the mediator shall cancel the session and immediately file with the mediation co-ordinator a certificate of non-compliance.

(2) Where a mediator files a certificate of non-compliance pursuant to rules 37A.05(3) and 37A.06(1) or where a party fails to comply with any requirement of this rule, including rules 37A.05(4), (5) or (6), any other party may apply for, or the court on its own motion may make, an order

- (a) establishing a timetable for the proceeding;
- (b) requiring the holding of a further mediation session at the expense of the defaulting party;
- (c) ordering any person to attend a rescheduled mediation session;
- (d) requiring the defaulting party to pay the whole or any part, exceeding 50 percent, of the fees and expenses of the mediator with respect to any mediation session previously scheduled but not held or improperly conducted as a result of the non-compliance of the defaulting party;

- (e) staying further proceedings in court until a mediation session has been conducted in compliance with this rule;
- (f) striking out any document filed by a party;
- (g) dismissing the proceeding, if the defaulting party is a plaintiff, or striking out the statement of defence, if that party is a defendant;
- (h) ordering a party to pay costs; and
- (i) making any other order that is just.

**Results of mediation**

**37A.07.** (1) Within 10 days after mediation is concluded, the mediator shall file with the mediation co-ordinator and deliver to each of the parties participating in the mediation a report in writing on the mediation indicating whether agreement has been reached, subject to rule 37A.07, on any of the issues in dispute, and, if all parties request, a report,

- (a) identifying the remaining points of difference, if any, and
- (b) containing any recommendations that the mediator deems fit to make as to how any such remaining issues might be resolved.

(2) The mediator's report filed pursuant to rule 37A.07(1) shall, unless it reports that the matter has been resolved, be sealed by the mediation co-ordinator and be kept separate from the court file containing the pleadings and shall not be disclosed to any trial judge who may thereafter try the case.

(3) If there is an agreement resolving all or any of the issues in dispute, it shall be in writing and signed by all parties participating in the agreement or their solicitors.

(4) If the agreement settles the action, the parties shall file a Memorandum of Settlement pursuant to rule 39.06

- (a) in the case of an unconditional agreement, within 10 days after the agreement is signed, and

(b) in the case of a conditional agreement, within 10 days after the condition is satisfied.

(5) If following mediation the proceeding remains unresolved in whole or in part, any party may proceed with the conduct of the proceeding, or that portion of the proceeding that remains unresolved, in the normal course.

(6) Where a party to a signed agreement fails to comply with its terms, any other party to the agreement may apply to the court for

(a) judgment in the terms of the agreement, and the court may grant judgment accordingly or with such modifications as subsequent circumstances may require to ensure that the applying party receives that to which the applying party is substantially entitled under the agreement; or

(b) leave to continue the proceeding as if there had been no agreement.

#### **Costs of mediation**

**37A.08.** (1) Unless the court otherwise orders or the parties otherwise agree, the mediator's fees and incidental expenses shall be borne equally by the parties who are ordered to participate in a court ordered mediation.

(2) A mediator on the mediators list shall file with the Registrar the mediator's schedule of fees. The Registrar may remove from the mediators list a mediator whose fees the Registrar may consider unreasonable.

(3) A mediator engaged pursuant to this rule,

(a) who is on the mediators list shall not charge fees for his or her services in excess of those filed with the Registrar, or,

(b) who is not on the mediators list shall not charge fees and incidental expenses in excess of a schedule of fees negotiated in advance with the parties and reduced to writing.

#### **Exemption**

**37A.09.** This rule shall not apply to family law proceedings.

Commencement

**2. This rule shall come into force on April 1, 2003.**

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**NEWFOUNDLAND AND LABRADOR  
REGULATION 34/03**

*Town of York Harbour Order, 2003*  
under the  
*Municipalities Act, 1999*  
(O.C. 2003-099)

*(Filed March 24, 2003)*

Under the authority of section 3 of the *Municipalities Act, 1999*,  
the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, March 18, 2003.

Deborah E. Fry  
Clerk of the Executive Council

**ORDER**

*Analysis*

- |                |           |
|----------------|-----------|
| 1. Short title | 3. Repeal |
| 2. Boundaries  | Schedule  |

Short title                    **1.** This Order may be cited as the *Town of York Harbour Order, 2003*.

Boundaries                    **2.** The boundaries of the Town of York Harbour are as set out in the Schedule.

Repeal **3. The *Town of York Harbour Order, Consolidated Newfoundland and Labrador Regulation 497/96*, is repealed.**

**Schedule**

Beginning at a point on the high-water mark of York Harbour in the Bay of Islands, that point being on the centre line of Rattler Brook where the brook flows into the Bay of Islands;

Then following the centre line of Rattler Brook in a generally southerly direction to a point, due east of the summit of Blow Me Down Hill;

Then due west, 2,332 metres, more or less, to the summit of Blow Me Down Hill at control monument # 36018;

Then south 70° 01' 25" west, 4,693 metres, more or less, to a point on the shoreline of an unnamed pond where an unnamed stream flows to the southwest;

Then south 74° 59' 22" west, 1,243 metres, more or less, to a point on the shoreline of an unnamed pond where an unnamed stream flows to the west;

Then following the southern bank of the stream in a generally westerly direction 1,000 metres more or less to the main feeder pond;

Then following the sinuosities of the southern shoreline of the pond to its most western point;

Then due west 607 metres, more or less to the eastern shoreline of an unnamed pond;

Then following the sinuosities of the southern shoreline of the pond in a westerly direction to its southwestern extremity;

Then north 20° 00' 00" west, 3,401 metres more or less, to the summit of Virgin Mountain, spot elevation 480.5 metres;

Then north 39° 55' 22" east, 1,222 metres, more or less to the summit of Great Mountain, spot elevation 391.4 metres;

Then south 54° 04' 01" east, 1,003 metres, more or less, to the centre-line of Bay of Islands Highway #450 where that highway crosses Grassey Brook;

Then in a general easterly direction to a point on the eastern side of Highway #450, that point being common to the southwestern extremity of Blow Me Down Provincial Park;

Then following the boundary of Blow Me Down Provincial to its south eastern extremity, that point being 10 metres from the shoreline of York Harbour;

Then in a southeasterly direction to a point the high-water mark of York Harbour on the northern bank of Grassey Brook, where that brook empties into York Harbour;

Then in a generally southerly direction along the sinuosities of the shoreline of York Harbour to the point of beginning.

All bearings refer to Grid North and, as with distances, are subject to approximation as delineated on the 1:2500 and 1:50000 mapping.

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**NEWFOUNDLAND AND LABRADOR  
REGULATION 35/03**

*Town of Lark Harbour Order, 2003*  
under the  
*Municipalities Act, 1999*  
(O.C. 2003-100)

*(Filed March 24, 2003)*

Under the authority of section 3 of the *Municipalities Act, 1999*,  
the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, March 18, 2003.

Deborah E. Fry  
Clerk of the Executive Council

**ORDER**

*Analysis*

- |                |           |
|----------------|-----------|
| 1. Short title | 3. Repeal |
| 2. Boundaries  | Schedule  |

Short title                    **1.** This Order may be cited as the *Town of Lark Harbour Order, 2003*.

Boundaries                    **2.** The boundaries of the Town of Lark Harbour are as set out in the Schedule.

Repeal **3. The *Town of Lark Harbour Order, Consolidated Newfoundland and Labrador Regulation 249/96*, is repealed.**

**Schedule**

Beginning at a point on the high-water mark of the eastern shoreline of the Gulf of St. Lawrence, that point being on the northern limits of Devil Head;

Then south 45° 30' east, 2,714 metres, more or less, to the summit of a hill known as O'Dwyer;

Then due east, 1,863 metres, more or less, to the high-water mark on the southern shoreline of Bay of Islands;

Then in a southwesterly and southeasterly direction following the sinuosities of the shoreline of Lark Harbour to a point on the bank of a stream which flows into Lark Harbour from the south;

Then following the western bank of the stream to a point on the western boundary of Blow Me Down Provincial Park;

Then following the park boundary in a southerly direction to a point on the eastern side of Bay of Islands South Highway, # 450 and east of the intersection of that highway and Grassy Point Brook;

Then in a general westerly direction, 25 metres, more or less, to center-line of highway # 450 where it crosses Grassy Point Brook;

Then north 54° 04' 01" west, 1,003 metres, more or less, to the summit of Great Mountain, elevation 391.4 metres;

Then north 55° 35' 06" west, 3, 858 metres, more or less, to the summit of Little Port Head;

Then due west, 255 metres, more or less, to the high-water mark on the eastern shoreline of the Gulf of St. Lawrence;

Then following the sinuosities of the shoreline in a generally northerly direction passing Little Port, Bottle Cove and Island Cove to the point of beginning.

All bearings refer to Grid North and, as with distances, are subject to approximation as delineated on the 1:2500 Provincial Base Mapping and the 1:50000 National Topographic Mapping.

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**NEWFOUNDLAND AND LABRADOR  
REGULATION 36/03**

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Proclamation bringing Act  
into force  
under the  
*Adoption Act*  
(o.c. 2003-143)

*(Filed March 25, 2003)*

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

EDWARD ROBERTS  
Lieutenant Governor

JOHN R. CUMMINGS  
Deputy Minister of Justice

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING;

**A PROCLAMATION**

WHEREAS in and by section 75 of *An Act Respecting Adoptions*, S.N.L. 1999, c A-2.1, (the "Act") it is provided that the Act shall come into force on a day to be fixed by Proclamation of Our Lieutenant Governor in Council;

AND WHEREAS it is deemed it expedient that the Act shall now come into force.

NOW KNOW YE, THAT We, by and with the advice of Our Executive Council of Our Province of Newfoundland and Labrador, do by this our Proclamation declare and direct that *An Act Respecting Adoptions*, S.N.L. 1999, c. A-2.1, shall come into force on April 30, 2003.

OF ALL WHICH OUR LOVING SUBJECTS AND ALL OTHERS whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF WE have caused these Our Letters to be made Patent and the Great Seal of Newfoundland and Labrador to be hereunto affixed.

WITNESS: Our trusty and well-beloved the Honourable Edward Roberts, one of Her Majesty's Counsel learned in the law, Lieutenant Governor in and for Our Province of Newfoundland and Labrador.

AT OUR GOVERNMENT HOUSE in Our City of St. John's this 24th day of March, in the year of Our Lord two thousand and three in the fifty-second year of Our Reign.

BY COMMAND,

OLIVER LANGDON  
Registrar General

---



**NEWFOUNDLAND AND LABRADOR  
REGULATION 37/03**

---

Proclamation bringing Act  
into force  
under the  
*Interjurisdictional Support Orders Act*  
(o.c. 2003-144)

*(Filed March 25, 2003)*

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

EDWARD ROBERTS  
Lieutenant Governor

KELVIN PARSONS  
Minister of Justice

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING;

**A PROCLAMATION**

WHEREAS in and by section 51 of *An Act Respecting Interjurisdictional Support Orders*, S.N.L. 2002, c I-19.2, (the "Act") it is provided that the Act shall come into force on a day to be fixed by Proclamation of Our Lieutenant Governor in Council;

AND WHEREAS it is deemed it expedient that the Act shall now come into force.

NOW KNOW YE, THAT We, by and with the advice of Our Executive Council of Our Province of Newfoundland and Labrador, do by this our Proclamation declare and direct that *An Act Respecting Interjurisdictional Support Orders*, S.N.L. 2002, c I-19.2, shall come into force on March 31, 2003.

OF ALL WHICH OUR LOVING SUBJECTS AND ALL OTHERS whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF WE have caused these Our Letters to be made Patent and the Great Seal of Newfoundland and Labrador to be hereunto affixed.

WITNESS: Our trusty and well-beloved the Honourable Edward Roberts, one of Her Majesty's Counsel learned in the law, Lieutenant Governor in and for Our Province of Newfoundland and Labrador.

AT OUR GOVERNMENT HOUSE in Our City of St. John's this 24th day of March, in the year of Our Lord two thousand and three in the fifty-second year of Our Reign.

BY COMMAND,

OLIVER LANGDON  
Registrar General

---



## NEWFOUNDLAND AND LABRADOR REGULATION 38/03

*Labour Standards Regulations (Amendment)*  
under the  
*Labour Standards Act*  
(O.C. 2003-141)

*(Filed March 25, 2003)*

Under the authority of sections 26 and 27 of the *Labour Standards Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, March 24, 2003.

Deborah E. Fry  
Clerk of the Executive Council

### REGULATIONS

#### *Analysis*

1. S.9(1.2) R&S  
Overtime wage

CNLR 781/96  
as amended

**1. Subsection 9(1.2) of the *Labour Standards Regulations* is repealed and the following substituted:**

(1.2) Notwithstanding subsections (1) and (1.1), effective April 1, 2003, for the purpose of section 25 of the Act, overtime wages shall be paid at a rate of not less than one and one half an employee's regular

rate of pay to those employees subject to a collective agreement negotiated after December 6, 2001 where the collective agreement, or a letter of understanding, schedule or other correspondence between the employer and a representative of the employees, attached to or forming part of the collective agreement, references an announcement of government that, effective April 1, 2003, these regulations would be amended to require all employers to pay overtime wages at a rate of not less than one and one half an employee's regular rate of pay, notwithstanding that such an amendment has not come into effect.

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**NEWFOUNDLAND AND LABRADOR  
REGULATION 39/03**

*Age for Presumptive Offences Order*  
under the  
*Youth Criminal Justice Act (Canada)*  
(O.C. 2003-153)

*(Filed March 25, 2003)*

Under the authority of section 61 of the *Youth Criminal Justice Act (Canada)*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, March 25, 2003.

Deborah E. Fry  
Clerk of the Executive Council

**ORDER**

*Analysis*

1. Short title
2. Minimum age
3. Commencement

Short title

**1.** This Order may be cited as the *Age for Presumptive Offences Order*.

Minimum age            **2.** The age for the purpose of the application of the provisions of the *Youth Criminal Justice Act* (Canada) relating to presumptive offences shall be 16 years.

Commencement        **3. This Order shall come into effect on April 1, 2003.**

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**NEWFOUNDLAND AND LABRADOR  
REGULATION 40/03**

*Level of Custody Determinations Order*  
under the  
*Youth Criminal Justice Act (Canada)*  
(O.C. 2003-154)

*(Filed March 25, 2003)*

Under the authority of section 88 of the *Youth Criminal Justice Act (Canada)*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, March 25, 2003.

Deborah E. Fry  
Clerk of the Executive Council

**ORDER**

*Analysis*

1. Short title
2. Level of custody
3. Commencement

Short title

**1.** This Order may be cited as the *Level of Custody Determinations Order*.

Level of custody

**2.** The power to make determinations of the level of custody for young persons and to review those determinations under the *Youth*

*Criminal Justice Act* (Canada) shall be exercised in accordance with the *Young Offenders Act*, chapter Y-1 of the Revised Statutes of Canada, 1985.

Commencement

**3. This Order shall come into effect on April 1, 2003.**

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**NEWFOUNDLAND AND LABRADOR  
REGULATION 41/03**

*Timber Royalty Regulations (Amendment)*  
under the  
*Forestry Act*  
(O.C. 2003-152)

*(Filed March 25, 2003)*

Under the authority of section 35 of the *Forestry Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, March 25, 2003.

Deborah E. Fry  
Clerk of the Executive Council

**REGULATIONS**

*Analysis*

1. Sch. R&S
2. Commencement

CNLR 962/96  
as amended

**1. The Schedule to the *Timber Royalty Regulations* is repealed  
and the following substituted:**

**Schedule**

## Royalty Rates for Timber

|  |                       |                       |
|--|-----------------------|-----------------------|
| <b>Sawlog Rates</b>                              | <b>Not Serviced</b>   | <b>Serviced</b>       |
| All Species                                      | \$2.28/m <sup>3</sup> | \$4.56/m <sup>3</sup> |
| <b>Pulpwood Rates</b>                            | <b>Not Serviced</b>   | <b>Serviced</b>       |
| All Species                                      | \$2.28/m <sup>3</sup> | \$4.56/m <sup>3</sup> |
| <b>Commercial Fuel-wood Rates</b>                | <b>Not Serviced</b>   | <b>Serviced</b>       |
| Roundwood (as per pulpwood)                      | \$2.28/m <sup>3</sup> | \$4.56/m <sup>3</sup> |
| Whole Tree Chips                                 | \$1.05/green tonne    | \$1.40/green tonne    |
| <b>Christmas Trees (Commercial)</b>              | <b>Not Serviced</b>   | <b>Serviced</b>       |
| 1-200 Trees                                      | \$250.00              | \$250.00              |
| Additional Trees                                 | \$1.00 per tree       | \$1.00 per tree       |
| <b>Christmas Trees (Domestic)</b>                | <b>Not Serviced</b>   | <b>Serviced</b>       |
| No charge for a Christmas Tree for personal use. |                       |                       |

Reductions: Reduction in rates may be made for wood previously identified and delineated on maps as steep slope, low volume stands (less than 90 m<sup>3</sup>/ha), insect- or fire-killed timber, and partition wood in accordance with the reductions list following. The resulting reductions are not to exceed 20 percent in cumulative total.

## Reductions

| Class                               | Amount of Reductions |          |
|-------------------------------------|----------------------|----------|
|                                     | Not Serviced         | Serviced |
| <b>Steep Slopes</b>                 |                      |          |
| (a) 30-40%                          | 10%                  | 10%      |
| (b) 40+ %                           | 20%                  | 20%      |
| <b>Low Volume Stands</b>            |                      |          |
| (a) 90 - 60 m <sup>3</sup> /ha      | 10%                  | 10%      |
| (b) less than 60 m <sup>3</sup> /ha | 20%                  | 20%      |
| <b>Dead Timber (Insect or Fire)</b> |                      |          |
| (a) 26-50% dead                     | 10%                  | 10%      |
| (b) 51-100% dead                    | 20%                  | 20%      |
| <b>Partition Wood</b>               |                      |          |
| Certified Partition Stand           | 20%                  | 20%      |

## Road Access

Non-serviced rates shall apply to areas which have been serviced by 2.0 or more kilometres of privately constructed road. In areas where 1.0 to 2.0 kilometres of private road have been provided, the applicable rates shall be those obtained by averaging the serviced and non-serviced rates.

Commencement

**2. These regulations come into force on April 1, 2003.**

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**PART II**  
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