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Offshore Employment and Occupational Health and Safety Issues

In Canada responsibility for regulating labour relations, employment and occupational health and safety matters is shared between the federal and provincial governments. In this paper the author describes the complexities of the legislative regime governing the Nova Scotia offshore. Specifically, he looks at section 157 of the Nova Scotia Accord Act (Canada), *certification of workers offshore, and occupational health and safety legislation.*

Au Canada, les gouvernements fédéral et provinciaux se partagent la compétence en matière de réglementation des relations de travail et de santé et de sécurité au travail. Dans ce document, l'auteur décrit les complexités du régime législatif qui régit la zone extracôtière de la Nouvelle-Écosse. Plus particulièrement, il examine l'article 157 de la Loi de mise en œuvre de l'Accord Canada — Nouvelle-Écosse *sur les hydrocarbures extracôtiers qui traite de la certification des travailleurs en zone extracôtière et des lois sur la santé et la sécurité au travail.*

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I. *Jurisdiction*

In Canada, the responsibility for regulating labour relations, employment and occupational health and safety matters is shared between the federal and provincial governments. Federal legislation applies to people employed by the federal government and industries falling within federal jurisdiction, including radio and television broadcasting, chartered banks, the post office, airports and air transportation, shipping and navigation (including loading and unloading of vessels), interprovincial or international transportation by road, rail, ferry or pipeline, telecommunications and industries declared for the general advantage of Canada, such as grain handling and uranium mining and processing. The primary federal legislation dealing with labour relations and occupational health and safety in these industries is the *Canada Labour Code*.[1] Provincial jurisdiction generally governs employees working in those industries which do not fall within federal jurisdiction.

1. *Legislative Regime in the Nova Scotia Offshore*

The legislative regime governing offshore Nova Scotia is encompassed in the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*[2] and its companion provincial legislation, the *Canada-Nova*

1. R.S.C. 1985, c. L-2.
2. S.C. 1988, c. 28 [*Nova Scotia Accord Act (Canada)*].

Scotia Offshore Petroleum Resources Accord Implementation Act (Nova Scotia).[3]

The *Nova Scotia Accord Act (Nova Scotia)* defines "Nova Scotia lands" as follows:

> "Nova Scotia lands" means
>
> (i) Sable Island, and
>
> (ii) those submarine areas that belong to Her Majesty in right of the Province or in respect of which Her Majesty in right of the Province has the right to dispose of or exploit the natural resources, and that are within the offshore area.[4]

"Offshore area" is defined as follows in the *Nova Scotia Accord Act (Canada)*:

> "Offshore area" means the lands and submarine areas within the limits described in Schedule I.[5]

Schedule I contains a detailed description of the "offshore area."

The *Nova Scotia Accord Act (Canada)* states in section 157(2):

> The Nova Scotia social legislation and any regulations made thereunder apply on any marine installation or structure that is within the offshore area in connection with the exploration or drilling for or the production, conservation or processing of petroleum within the offshore area.[6]

"Nova Scotia social legislation" is defined in section 157(1) to include the Nova Scotia *Labour Standards Code*,[7] the *Occupational Health and Safety Act*,[8] the *Trade Union Act*,[9] and the *Workers Compensation Act*.[10] Section 157(1) defines "marine installation or structure" as follows:

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3. S.N.S. 1987, c.3 [*Nova Scotia Accord Act (Nova Scotia)*]. The *Nova Scotia Accord Act (Nova Scotia)* and the *Nova Scotia Accord Act (Canada)* are collectively referred to as the *Nova Scotia Accord Acts*.
4. *Ibid.*, s. 2(p).
5. *Supra* note 2, s. 2.
6. *Supra* note 2, s. 157(2).
7. R.S.N.S. 1989, c. 246.
8. S.N.S. 1996, c. 7.
9. R.S.N.S. 1989, c. 475.
10. S.N.S. 1994-95, c. 10.

(a) any ship, offshore drilling unit, production platform, subsea installation, pumping station, living accommodation, storage structure, loading or unlanding platform, and
(b) any other work or work within a class of works prescribed pursuant to paragraph 5(a),

but does not include any vessel that provides any supply or support services to a ship, installation, structure or work described in paragraph (a) or (b).[11]

On the face of this section, it is the *Occupational Health and Safety Act* of Nova Scotia and other labour relations legislation of the Province of Nova Scotia which apply to offshore Nova Scotia.

However, section 157(5) of the *Nova Scotia Accord Act (Canada)* also states:

Subject to section 6, the Governor in Council may make regulations

(a) prescribing a work or a class of works for the purpose of the definition "marine installation or structure" in subsection (1); and

(b) prescribing, for the purpose of subsection (2), any Act of the Legislature of the Province or excluding any such Act from the application of that subsection.[12]

It is therefore possible that the operation of specific Nova Scotia social legislation could be excluded from the offshore pursuant to this section. To date, no regulations have been passed which would exclude any of Nova Scotia's social legislation from application to the offshore.

Under section 6 of the *Nova Scotia Accord Act (Canada)* any regulation made by the federal cabinet pursuant to section 157 must also be approved by the provincial minister before it can become effective.[13] While initially there was some question concerning the constitutionality of this provision, the Federal Court has determined that the section is constitutionally valid.

The *Nova Scotia Accord Act (Canada)* also prescribes applicable legislation when a "marine installation or structure" is in the offshore area in the exploration or production phase of operations. Section 157(4) states:

11. *Supra* note 2, s. 157(1).
12. *Supra* note 2, s. 157(5).
13. *Supra* note 2, s. 6.

Notwithstanding subsection 123(1) of the *Canada Labour Code* and any other Act of Parliament

(a) Parts II and III of the *Canada Labour Code* do not apply on any marine installation or structure referred to in subsection (2), and

(b) in respect of any marine installation or structure referred to in subsection (2) that is within the offshore area for the purpose of becoming, or that is, permanently attached to, permanently anchored to or permanently resting on the seabed or subsoil of the submarine areas of the offshore area,

(i) Part I of the *Canada Labour Code* does not apply, and

(ii) the *Trade Union Act,* Chapter 19 of the Statutes of Nova Scotia, 1972, as amended from time to time, applies

during such time as the marine installation or structure is within the offshore area in connection with a purpose referred to in that subsection.[14]

As a result of the decision in *Seafarers' International Union of Canada v. Rowan Canada Limited,*[15] it is now clear that it is Nova Scotia labour relations legislation which applies in the Nova Scotia offshore area. The case confirmed the interpretation given to section 157(2) by the Canada Labour Relations Board. The Board held that the ability to exclude provincial social legislation by regulation is limited to circumstances described in section 157(2) and does not apply to those described in section 157(4). Therefore any marine installation that falls within the provisions of section 157(4) is governed by the provisions of the applicable Nova Scotia legislation.

Section 157(4) has created a subset of marine installations, those which are "permanently attached" to the seabed or subsoil and from which the application of *Nova Scotia Trade Union Act* and other Nova Scotia social legislation cannot be excluded by regulation.

14. *Supra* note 2, s. 157(4), as am. by *Miscellaneous Statute Law Amendment, 1999*, S.C. 1999, c. 31, s. 33.

15. *Seafarers' International Union of Canada v. Rowan Canada Limited* (1992), 89 di 128, 92 CLLC 16,066 (CLRB No. 961) [*Rowan Canada Limited*].

2. *Rowan Canada Limited*
In *Rowan*, the Canada Labour Relations Board was considering an application for certification by the Seafarers International Union of Canada. The Board stated:

> The issue for the Board to decide was whether it had any jurisdiction to entertain and deal with the application in light of the provisions of the *Canada-Nova Scotia Offshore Petroleum Resources Accord Implementation Act*, S.C. 1988, c. 28 (the *Implementation Act*).[16]

In reciting the background facts, the Board noted that the rig in question, the Rowan Gorilla, was a "jack up rig" and stated:

> The Gorilla left Halifax Harbour on November 22, 1991 and returned to the Panuke site where it set its legs down on the sea floor and completed the drilling of the final production wells into the Panuke portion of the project reserves.[17]

The Board initially considered whether it was constitutionally valid to incorporate Nova Scotia social legislation by reference into federal legislation. The Board found:

> These authorities support the conclusion that the incorporation by reference of Nova Scotia social legislation in section 157 is constitutionally valid. Anticipatory incorporation, or incorporation by reference of provincial legislation as amended from time to time, has been upheld in *Coughlin*, supra, and *Dick*, supra. The requirement that the incorporated legislation be independently valid, as suggested in *Meherally*, supra, is met in this case. Nova Scotia social legislation, such as the Trade Union Act, is independently valid under section 92 of the Constitution, Property and Civil Rights within the Province.[18]

The Board next considered whether the delegation of legislative authority to a provincial cabinet minister constituted delegation to the legislature of which the minister was a member. The Board decided that the delegation of legislative authority to the provincial minister in section 157(5) was constitutionally valid.

16. *Ibid.* at 2.
17. *Ibid.* at 3.
18. *Ibid.* at 10.

The Board framed the third issue raised by this application as follows:

> The parties are in agreement that the Gorilla is a marine installation or structure within the meaning of section 157. The parties disagree on the proper application of sections 157(2) and 157(4). The parties also disagree over whether, at the time of the application for certification, the Gorilla was in the offshore area for the purpose of becoming or was permanently attached to, permanently anchored to or permanently anchored on the seabed or subsoil or the submarine areas of the offshore area.[19]

In addressing this issue the Board undertook a detailed analysis of the wording and structure of section 157 of the *Nova Scotia Accord Act (Canada)*,[20] which is identical to the wording of section 152 of the *Newfoundland Accord Act (Canada)*.[21] In analyzing these provisions the Board stated:

> ...It is section 157(4) (b), however, that is most pertinent to these proceedings.
>
> Section 157(4)(b) refers to marine installations or structures within the meaning of section 157(2), but only those marine installations or structures that are in the offshore area for the purpose of becoming, or that are, permanently attached to, permanently anchored to or permanently resting on the seabed or subsoil of the submarine areas of the offshore area. Out of the class of marine installations and structures created by section 157(2) it creates a subclass in which are included the marine installations and structures which satisfy the "permanency" criteria section 157(4)(b).
>
> In respect of this subclass, section 157(4)(b) provides that Part V (now Part I) of the Code does not apply, and the Trade Union Act does apply during such time as the marine installation or structure is within the offshore area in connection with a purpose referred to in that provision.[22]

The Board then addressed whether these two provisions were in conflict and concluded:

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19. *Ibid.* at 14.
20. *Supra* note 2, s. 157.
21. *Canada-Newfoundland Atlantic Accord Implementation Act*, S.C. 1987, c. 3 [*Newfoundland Accord Act (Canada)*].
22. *Supra* note 15 at 15.

> The question raised by the parties was whether sections 157(2) and 157(4) are in conflict. In the Board's view, there is no conflict between these sections. Section 157(1), subject to modification by the Governor in Council pursuant to section 157(5)(a), defines what constitutes a marine installation or structure. It also defines what constitutes Nova Scotia social legislation. Section 157(2) creates a subclass of marine installations consisting of those that are in the offshore area in connection with the activities described therein. The Nova Scotia social statutes set out in section 157(1), plus or minus any statutes designated by the Governor in Council pursuant to section 157(5)(b), apply to the marine installations and structures in this subclass.
>
> A further subclass of marine installations and structures is carved out of this subclass by the operation of section 157(4)(b). The latter provision creates a subclass consisting of marine installations and structures as set out in section 157(2) with the further qualification that they must satisfy the permanency requirement of section 157(4)(b). In respect of this class of marine installations and structures, Part V (now Part I) of the Code does not apply. In its place the Nova Scotia Trade Union Act does apply. In respect of these marine installations or structures, the Governor in Council has no statutory authority to remove the application of the Trade Union Act.
>
> At present, the Governor in Council has not, under section 157(5), removed the application of the Trade Union Act. Thus a marine installation or structure within the meaning of section 157(2) will be governed by that Act. A marine installation and structure which also meets the "permanency" requirements of section 157(4)(b) would be governed by the Trade Union Act, and excluded from the application of the Code, by virtue of both sections 157(2) and 157(4)(b).[23]

The Board then addressed the issue of whether the Gorilla, in this situation, was "permanently attached" to the seabed or subsoil of the marine offshore area. The Board stated:

> ...The purpose and general scheme of the Act, as well as the definition of marine installation and structure all suggest that the phrases permanently anchored, permanently attached, and permanently resting should be interpreted as relating to the exploration, development and production of petroleum. Permanency, as argued by Rowan, should be interpreted as permanency relative to the phases of the petroleum production process.

23. *Supra* note 15 at 15-16.

> Thus if there is evidence that a marine installation or structure is in the offshore with the intention of completing the production phase of a project it would satisfy the permanency requirement of section 157(4)(b).[24]

The Board further concluded that permanency might relate to durations as short as one month or one year. It may begin as soon as a structure enters the offshore area and there is an intention to become engaged in the exploration, development and production of petroleum.

The *Rowan* case settled that the legislative scheme in the *Canada-Nova Scotia Offshore Accord* was constitutionally valid and that the governing labour relations legislation in the Nova Scotia offshore was that of the Province of Nova Scotia.

3. *Nova Scotia Legislation*

Trade Union Act

The Nova Scotia *Trade Union Act* does not contain specific provisions relating to the certification of operations in the offshore. This lack of particular provisions to deal with offshore installations contrasts sharply with the specific provisions found in the Newfoundland and Labrador *Labour Relations Act*.[25] This may, in the future, cause practical difficulties with respect to both access to offshore facilities for organizational purposes and to the appropriate description of potential bargaining units on offshore installations.

The Nova Scotia *Trade Union Act* is divided into Part I, the general provisions relating to all other types of industries, and Part II, which is specific to the construction industry. Part II of the *Trade Union Act* defines the "construction industry" as follows:

> "construction industry" means the on-site constructing, erecting, altering, decorating, repairing or demolishing of buildings, structures, roads, sewers, water mains, pipe-lines, tunnels, shafts, bridges, wharfs, piers, canals or other works.[26]

There have been no applications for certification relating to offshore facilities in Nova Scotia. Therefore the Labour Relations Board of Nova Scotia has not had to consider whether such applications should appropri-

24. *Supra* note 15 at 17.
25. *Labour Relations Act*, R.S.N.L. 1990, c. L-1.
26. *Supra* note 9, s. 92(c).

ately come forward under Part II of the *Trade Union Act* dealing with the construction industry or Part I, the general provisions. The answer to this question may ultimately depend on the particular stage of a project at the time an application for certification is filed. Part II of the *Trade Union Act* applies only during the construction phase of the project. Once a project becomes operational, it then falls under Part I.

There are significant differences between Parts I and II of the *Trade Union Act*. Pursuant to Part II, unions are certified on a "craft" basis for individual employers. For example, all of the painters employed by a particular employer in the construction of an offshore production facility might be certified. However, because of the craft nature of the construction industry certification, the certification would not apply to the other trades employed by that employer (e.g., insulators, electricians, carpenters, etc.). Similarly, the certification would also not apply to other employers at the "construction site" (i.e., the rig or production platform) even if they were employing painters.

It is obvious that certification on a craft basis during the construction phase of offshore production facilities has the potential to lead to a "patch-work quilt" pattern of unionization. The situation is only slightly better, however, in the production phase. This phase is governed by Part I of the *Trade Union Act*. The *Trade Union Act* was not drafted in contemplation of the unique employment relationships in place on offshore production facilities. Rather, it was drafted in contemplation of a single plant or entity being certified by a single union. Therefore, as the *Trade Union Act* currently exists, it is possible for the employees of any of the employers working on an offshore production platform to apply for certification. If successful, the certification would only extend to that employer and to those categories of employees working for that employer who were deemed by the Labour Relations Board to be "appropriate for collective bargaining." Obviously, given the numerous working relationships on an offshore production platform, it is possible that only one of many employ-ers could, under this legislative scheme, be unionized while the employees of other employers in the same workplace would not be unionized. This could, in turn, lead to substantial operational difficulties.

From a practical perspective, many of the potential difficulties in respect of unionization during the construction phase of offshore facilities have been minimized by specific "project agreements" such as the *General Maintenance Committee for Canada Collective Agreement for Off-shore Maintenance, Renovation, and Revamp, including Project Support*

Associated with Cohasset/Panuke/Oil Gas Field[27] (the "General Presidents Agreement"). This agreement, for example, provides for certain trade flexibility which is of significance in this type of project.

4. *Other Nova Scotia Cases*

While there have been no Nova Scotia cases which have dealt with certification in the offshore, there have been a number of relevant decisions relating to "onshore" jurisdictional matters. This paper will now briefly review those decisions.

a. *Halifax Offshore Terminal Services Limited et al.*[28]

This case is commonly referred to as the "Checkers" case. It involved an application to extend the geographic certification of the Stevedores Union in the Port of Halifax to include work related to the checking of cargos being loaded and off loaded from offshore supply vessels. The Canadian Labour Relations Board found that the work in question should not be included within the geographical certification of the International Longshoremen's Association, the union which represents stevedores in the Port of Halifax.

In that decision the Board stated as follows:

> Although these circumstances are somewhat different from those we just related for Husky/Bow Valley and Shell, the considerations are similar. To determine whether Mobil is engaged in the longshoring industry referred to in section 132 of the Code, we must look at its operations as a going concern. A small part of its operations that happen to involve the loading and unloading of vessels cannot be isolated from its overall operations to support a finding that Mobil employs employees in the longshoring industry. The fact that Mobil uses its own employees, or a few contracted employees to load or unload its goods and equipment and that of its subcontractors on to vessels, or to do work that is related to the movement of such goods and equipment to its drilling site, surely does not transform its business into longshoring for the purposes of section 132. More specifically, surely because Mobil's logistics supervisor and its logistics co-ordinator happen to [perform] work on occasion that is similar to the work done by ILA Checkers, does not mean that they are employees who are employed in the longshoring industry, even if the work is done at the waterfront. The work done by the incumbents in these positions is

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27. See reference to the General President's Agreement online at: <http://pphm.com/uploads/offshoreEmploy_OccpHbs.pdf>.
28. (1987), 71 di 157 (CLRB No. 651).

> directly related to Mobil's ongoing business of oil and gas exploration. This work is far from essential to Parliament's jurisdiction over maritime transportation. In that sense, we doubt whether the work done by these two persons even falls within the jurisdiction of the Code. It is our finding that Mobil, East Coast and Rowan are not employers of employees performing checking work in the longshoring industry referred to in section 132 of the Code.[29]

The union's application for certification was dismissed.

b. *Secunda Marine Services Limited*[30]

The Canada Industrial Relations Board had occasion to reconsider the decision in the Checkers case in another case involving Mobil. In that instance, the Halifax Longshoremen's Association again requested an amendment of the Board's order granting it a geographic certification for the Port of Halifax so that the certification would include a number of companies who performed work at Mobil's shore base. The Board defined the dispute as follows:

> The issue in dispute, however, is whether the Board's certification and the collective agreement should apply to certain operations and work carried out by the respondent companies. In particular, this work involves loading and unloading oil and gas exploration and drilling supply vessels at the "Mobil dock" located in Dartmouth, Nova Scotia. The area in which the dock is located is admittedly within the geographic boundaries of the Port of Halifax.[31]

The evidence disclosed that all the ships being loaded and unloaded were in the service of Sable Offshore Energy Project (SOEP). Mobil itself was not directly engaged in loading or unloading the supply vessels. Those functions were carried out by employees of one of the respondent companies, Offshore Logistics Inc. (Offshore). Offshore provided all the services and equipment required to operate and manage the Dartmouth supply base for SOEP. The sole employer of the employees engaged in loading and unloading the supply vessels was Offshore. The positions of the parties with respect to this matter were stated as follows:

> Based on the submissions of counsel, it appears that there are two possible views of the work performed in the present case. The first view, argued

29. *Ibid.* at 173-174.
30. *Secunda Marine Services Limited* et al., [1999] CIRB No. 16.
31. *Ibid.* at 3.

by the applicant, is that the work is longshoring work carried out by Offshore employees within the geographical boundaries of the certification of the Port of Halifax. The work is similar in every essential respect to the work carried out by employees already in the bargaining unit. The work is certainly done within the geographical certification and its nature, essentially the loading and unloading of ships, is not different from traditional longshoring work.

At the same time, counsel for Offshore suggests that the work is related to oil and gas exploration and development. In this connection, the fact that some work is of a longshoring or stevedoring nature is really incidental and should be viewed as such. The essential work is oil and gas exploration in the offshore, not longshoring as a part of navigation and shipping. The fact that in certain circumstances the work done is longshoring should not obscure the fact that the general nature of the work is in the oil and gas industry. According to this view, the longshoring portion should be considered as exceptional and incidental.[32]

Following a discussion of case law, the Board defined the issue as follows:

The essential question to be addressed, therefore, is whether and when employees doing longshoring work should be viewed as employees actively engaged in the longshoring industry and when it is appropriate to see the longshoring work as an incidental component of some other industry.[33]

The Board stated:

...what is more directly at issue is the interpretation and scope that should be given to the provisions of section 34 in the circumstances. What a consideration of the double aspect of the work does is to facilitate an articulation of the balancing that must occur in interpreting and applying the Code's provisions in circumstances such as the present. The issue before the Board is whether the purposes of the *Canada Labour Code* can be better met if the activities are viewed from the aspect of longshoring incident to shipping or as activities forming a part of oil and gas exploration and development.[34]

32. *Ibid.* at 9-10.
33. *Ibid.* at 11.
34. *Ibid.* at 14.

The Board concluded:

> ... it is helpful to consider the basic nature of the matter presently in issue. In the present circumstances...it is clear beyond dispute that the activities of the employees are not incidentally related to longshoring but are the essence of longshoring. The longshoring activities of Offshore employees are not an incidental or occasional part of their work. The evidence indicates that approximately 25% of the work of this employee group is carried out at the Mobil dock and a large part is longshoring work or very closely related to it. The longshoring aspect occurs regularly and substantially and not incidentally and occasionally. The loading and unloading of the chartered vessels is a regular and ongoing activity. Offshore is clearly an essential link in a system that undertakes the marine transport of goods on a regular and ongoing basis.[35]

The fact that the work being undertaken by Offshore was coordinated with the work undertaking in the Mobil pipe yard was also considered by the Board. It stated:

> Its work at the dock, which is the subject of this application, is similarly different in content from that of the pipeyard. While the pipeyard work may be viewed as logistical, preparatory and organizational, the work at the dock is primarily directed to the objective of the marine transportation of the goods being shipped.[36]

In the end result, the Board found that the employees working at the dock were engaged in longshoring and should be included in the geographic certification of the ILA.

II. *Occupational Health And Safety*

At this time, there are three distinct bodies of occupational health and safety legislation which are applicable in Nova Scotia offshore areas. Which will apply in a given situation depends upon the nature of the operations being undertaken.

The Canada Nova Scotia Offshore Petroleum Board has in place *Draft Regulations Respecting Occupational Safety and Health for Employees in*

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35. *Ibid.* at 16.
36. *Ibid.* at 17.

Respect of the Exploration or Drilling for or the Production, Conservation, Processing or Transportation of Petroleum in Nova Scotia Offshore Area[37] (Draft Regulations) as well as the *Nova Scotia Offshore Petroleum Occupational Health & Safety Requirements*[38] (Requirements). This paper will not deal in any detail with either the Draft Regulations or the Requirements given the process currently in place for a rationalization of the regulation of occupational health and safety in the Nova Scotia and Newfoundland offshore areas.

Between November 2, 2002, and January 1, 2003, the governments of Nova Scotia, Newfoundland and Labrador, and Canada held a number of workshops in Halifax and St. John's. These workshops involved many of the stakeholders in the offshore. Their purpose was to develop occupational health and safety regulations to be implemented under the applicable *Accord Acts*. The proposed changes to the *Accord Acts* which resulted from these workshops are intended to implement into law the current practices of the Nova Scotia and Newfoundland and Labrador Offshore Petroleum Boards regarding occupational health and safety. At the time this paper was written, discussions were ongoing with respect to the proposed amendments.

A third source of regulation is the *Marine Occupational Safety & Health Regulations*[39] administered by Transport Canada through a *Memorandum of Understanding*[40] with Human Resource Development Canada. These regulations apply to ships registered in Canada, uncommissioned ships of Her Majesty in right of Canada and employees employed in the loading and unloading of ships. The regulations apply to all vessels that are not moored to the ocean floor.

In addition to the regulations noted above, because of the application of "Nova Scotia Social Legislation" in offshore Nova Scotia, the *Occupational Health and Safety Act* of the province may have application in the Nova Scotia offshore area.

Determining which governmental entity has responsibility for the investigation of incidents involving occupational health and safety in the offshore is an area of contention. In Nova Scotia, efforts have been made to address this concern through a *Memorandum of Understanding*

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37. Petroleum Occupational Safety and Health Regulations – Nova Scotia (5 April 1990) [unpromulgated].
38. Nova Scotia Offshore Petroleum Health and Safety Requirements (December 2000), online: CNSOPB <http://www.cnsopb.ns.ca/Regframework/regulatory.html>
39. S.O.R./87-183.
40. *Memorandum of Understanding Between HRDC and TC Respecting the Application and Enforcement of the CLC, Part II* (originals signed June 1998), online: Transport Canada <http://www.tc.gc.ca/marinesafety/MOSH/Online-Documents/MOU/Part14.htm>.

(MOU)[41] signed in January 1991. Parties to the MOU include the Canada-Nova Scotia Offshore Petroleum Board, the Minister of Nova Scotia Department of Labour, the Minister of Nova Scotia Department of Mines & Energy and the Minister of the Federal Department of Energy, Mines and Resources.

Under the provisions of this MOU, when an inspection is required to be conducted under the *Occupational Health & Safety Act*, the Board will, to the extent possible, conduct the inspection on behalf of the relevant provincial department. For inspections required under the *Labour Standards Code* or *Trade Union Act* of Nova Scotia, the provincial department will conduct the inspection on its own behalf with the assistance of the Board. In addition, under this MOU, the two agencies will share information, reports and statistics as considered appropriate for the purposes of the Board and the provincial department.

Conclusion

The current legislative regime governing occupational health and safety in offshore Nova Scotia is somewhat confused and raises the possibility of multiple reporting and jurisdictional conflicts. The new measures proposed to deal with this area have the potential to bring needed clarity to the regulation of the offshore oil and gas industry in both Nova Scotia and Newfoundland and Labrador.

41. A copy of the January 1, 1991 "MOU Among the Canada-Nova Scotia Offshore Petroleum Board and the Minister of Nova Scotia Department of Labour and the Minister Responsible for the Nova Scotia Department of Mines and Energy and the Minister of the Federal Department of Mines and Energy" can be obtained from the Nova Scotia Offshore Petroleum Board.