Draft Rent Regulation Section for the New Brunswick Residential Tenancies Act

1. The purposes of this Part are:
    a. To permit landlords to increase rents to match inflation.
    b. To permit landlords to pass through increases to their property tax and insurance costs to tenants, to the extent that those increases exceed inflation.
    c. To require that landlords pass through decreases to their property tax and insurance costs to tenants.
    d. To permit landlords to pass through the costs of major repairs and renovations to tenants, but to avoid overcharging tenants for those costs.
    e. To mitigate impacts on tenants by limiting maximum increases to 6% annually.

2. An increase to the rent of a rental unit is not valid unless:
    a. At least 12 months have elapsed since the last rent increase for that rental unit or, if the rent has never been increased, since the day that the unit was first rented;
    b. The amount of the increase does not exceed the maximum increase permitted under this Part for the calendar year in which the increase takes effect; and
    c. If the unit is currently rented, the landlord has given the tenant 90 days' written notice of the increase.

3. The rent of a rental unit runs with the rental unit and not the tenant.

<u>Allowable rent increase to match inflation</u>

Example: From 2021-2022, the New Brunswick CPI increased by 6.8%. For 2023, the Minister could set the guideline anywhere between 0% and 6%.

4. In this section:

a. The "CPI" for a calendar year means the annual average Consumer Price Index for New Brunswick for that year as calculated by Statistics Canada.
b. In calculating the maximum guideline for a particular calendar year, the "base year" means the calendar year immediately preceding that year, and the "reference year" means the calendar year immediately preceding the base year.
c. The "guideline" for a calendar year is the maximum percentage by which the rent for a rental unit may be increased in that year without an order from a Residential Tenancies Officer.

5. At the beginning of each calendar year, the Minister shall set the guideline for that year. The guideline shall not exceed the lower of:
    a. the percentage by which the CPI increased from the reference year to the base year; and
    b. six percent.

6. The Minister shall publish the guideline on the website of the Tenant and Landlord Relations Office.

<u>Allowable rent increase to pass through eligible capital expenses</u>

Example 1: A building has three units, with monthly rents of $500, $600, and $600, respectively. The landlord spends $10,000 to make necessary safety repairs to the balconies. The repair is expected to last 15 years before the balconies need to be repaired again.
The amortized monthly annual capital expense is $666.66 ($10,000 / 15). The landlord is essentially paying $666.66 annually to keep the balconies in good repair.
The total annual rent for the building is $20,400 (($500 + $600 + $600) x 12).
The residential tenancies officer will issue an order permitting a rent increase of 3.27% ($666.66 / $20,400 x 100). This represents monthly increases of $16.35, $19.62, and $19.62 for the three units. Over the next 15 years, these increases will pay a total of $10,000 to the landlord. At the end of the 15-year period, the rents will decrease by the same amounts.

Example 2: The landlord replaces the refrigerators in all three units with large-capacity, luxury models. The new refrigerators are expected to last 20 years.
This is not an eligible capital expense, because the refrigerators are not a major system or major component of the building, and also because replacing them was not necessary to maintain the building in a good state of repair.

7. In this section:
    a. "Eligible capital expense" means an expense incurred by a landlord in respect of a building, which:

i. was incurred for the repair or replacement of a major system of major component of the building;
ii. was necessary to maintain the building in a state of repair that complies with health, safety, and housing standards required by law;
iii. was an extraordinary or significant expense, and was not routine or ordinary maintenance; and
iv. is not expected to be incurred again for at least five years.

b. The "useful life" of an eligible capital expense means the number of years before the expense is expected to be incurred again.
c. "Amortized annual capital expense" means the total amount of an eligible capital expense divided by its useful life.
d. "Total annual building rents" means the sum of the rents for all the residential rental units in a building over one year.

8. A landlord may apply to a residential tenancies officer for an order permitting the landlord to increase a building's rents in a particular calendar year because of eligible capital expenses incurred for work completed in the preceding calendar year. The parties to the application are the landlord and all tenants of units in the building.

9. Where a building is used for multiple purposes, the residential tenancies officer shall consider only the portions of eligible capital expenses that are attributable to the provision of rented residential units owned by the landlord.

10. For each eligible capital expense, the residential tenancies officer shall allow a percentage rent increase which will pay for the full cost of the capital expense over the useful life of the capital expense, calculated as follows:

Amortized annual capital expense / total annual building rent x 100

11. For each eligible capital expense, the order shall provide that, once the increase has been paid over the full useful life of the capital expense, the rents shall decrease by the same amounts that they increased as a result of that capital expense.

Allowable rent increase to pass through an extraordinary increase to property tax and insurance costs

Example: A building has three units, with monthly rents of $500, $600, and $600, respectively. The annual property taxes and insurance costs for the building have increased from $10,000 in 2022 to $11,000 in 2023. The guideline for 2024 is 4%.
The expected property tax and insurance cost for 2023 is $10,400 ($10,000 increased by 4%).
The extraordinary increase to property tax and insurance costs is $600 ($11,000 - $10,400).
The total annual rent for the building is $20,400 (($500 + $600 + $600) x 12).
The residential tenancies officer will issue an order permitting a rent increase of 2.94% ($600 / $20,400 x 100). This represents monthly increases of $14.70, $17.64, and $17.64 for the three units. These increases will pay a total of $600 annually to the landlord.

12. In this section:
    a. Where a landlord applies for permission to increase the rent in a particular calendar year, the "base year" means the calendar year immediately preceding that year, and the "reference year" means the calendar year immediately preceding the base year.
    b. The "expected property tax and insurance costs" for a base year means the amount of those costs in the reference year, increased by the guideline percentage applicable in the base year.
    c. An "extraordinary increase" to property tax and insurance costs means the amount by which the actual amount of those costs in the base year exceeds the expected costs.
    d. "Total annual building rents" means the sum of the rents for all the residential rental units in a building over one year.

13. A landlord may apply to a residential tenancies officer for an order permitting the landlord to increase a building's rents in a particular year because of an extraordinary increase in the building's property tax and insurance costs. The parties to the application are the landlord and all tenants of units in the building.

14. Where a building is used for multiple purposes, the residential tenancies officer shall consider only the portion of property tax and insurance costs that are attributable to the provision of rented residential units owned by the landlord.

15. The residential tenancies officer shall not consider property tax and insurance cost increases that resulted from the addition of new rental units to a building.

16. The residential tenancies officer shall allow a percentage rent increase which will pay for the annual extraordinary increase, calculated as follows:

Amount of extraordinary increase / total annual building rents x 100

Application by tenant for a rent decrease

17. A tenant may apply to a residential tenancies officer for an order that their rent be decreased if their landlord's property taxes and insurance costs are lower in the Base Year than in the Reference Year.

18. If a building's property taxes and insurance costs decrease, the landlord shall promptly inform the building's tenants of the decrease.

Total allowed increase

Example: The guideline for 2024 is 4%. A residential tenancies officer has issued an order permitting additional increases of 3.27% for capital expenses and 2.94% for an extraordinary increase to property tax and insurance costs.
The net increase for 2024 is 10.21% (4% + 3.27% + 2.94%).
In 2024, the landlord may increase the rent for each unit by up to 6%.

19. In this section:
    a. The "net increase" in the rent of a rental unit in a calendar year is the sum of:
        i. the guideline for that year;
        ii. the percent increases allowed by order of a residential tenancies officer for that year for eligible capital expenses; and
        iii. the percent increase allowed by order of a residential tenancies officer for that year for an extraordinary increase to property tax and insurance costs.

20. The maximum amount by which the rent for a rental unit may be increased in a particular calendar year is the lower of:
    a. the net increase for that rental unit for that year; and
    b. six percent.