



BILL NO. 115

Government Bill

*1st Session, 59th General Assembly
Nova Scotia
53 Elizabeth II, 2004*

An Act Respecting the Maritime Provinces Higher Education Commission

CHAPTER 30
ACTS OF 2004

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
OCTOBER 18, 2004**

The Honourable Jamie Muir
Minister of Education

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

An Act Respecting the Maritime Provinces Higher Education Commission

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Maritime Provinces Higher Education Commission Act*.

2 In this Act,

- (a) "Chair" means the Chair of the Commission;
- (b) "Chief Executive Officer" means the Chief Executive Officer of the Commission;
- (c) "Commission" means the Maritime Provinces Higher Education Commission;
- (d) "Council" means the Council of Maritime Premiers established pursuant to the *Council of Maritime Premiers Act*;
- (e) "institutions" means the post-secondary educational institutions prescribed by the regulations;
- (f) "minister" of a province means the minister of the Crown responsible for post-secondary education in that province;
- (g) "Ministers" means the ministers of the Crown responsible for post-secondary education in the Provinces;
- (h) "post-secondary education" means the education and training provided in or by institutions;
- (i) "Provinces" means the Province of New Brunswick, the Province of Nova Scotia and the Province of Prince Edward Island;
- (j) "region" means the area comprising the Province of New Brunswick, the Province of Nova Scotia and the Province of Prince Edward Island;
- (k) "student" means an individual registered as a student in an institution;
- (l) "universities" means the post-secondary educational institutions prescribed by the regulations.

3 (1) The body established by the Council and known as the Maritime Provinces Higher Education Commission is continued.

(2) The Commission consists of

- (a) twenty members appointed by the Ministers as set out in Section 4; and
- (b) the Chief Executive Officer.

4 (1) The Ministers shall appoint members of the Commission as follows:

- (a) at least six from among the nominees submitted pursuant to Section 5;

(b) at least six from among senior public officials and the executive heads of non-university institutions; and

(c) at least six from the public at large, of which at least two must be students.

(2) At least one of the members appointed pursuant to each of clauses (1)(a), (b) and (c) shall be selected from each of the Provinces.

(3) No two persons appointed pursuant to clause (1)(a) may be selected from the same university.

(4) The members of the Commission immediately before the coming into force of this subsection, other than the Chief Executive Officer, are deemed to have been appointed pursuant to subsection (1).

5 (1) There shall be a nominating committee consisting of

(a) the executive heads of the universities; and

(b) one representative appointed by the Senate or equivalent academic body of each university,

and the committee shall nominate persons for appointment pursuant to clause 4(1)(a) and subsections (2) and (3).

(2) Where a vacancy occurs among the members appointed pursuant to clause 4(1)(a), the nominating committee shall submit to the minister of the province from which the member to be replaced was appointed the names of two persons selected from that minister's province and that minister shall, subject to Section 4, appoint one of such persons to fill the vacancy for the balance of the term of the member replaced.

(3) At least sixty days before the expiration of the term of a member appointed pursuant to clause 4(1)(a) or subsection (2), the nominating committee shall submit to the minister of the province from which the member to be replaced was appointed the names of two persons from that minister's province and that minister shall, subject to Section 4, appoint one of such persons to take office on the expiration of such term.

(4) The members of the nominating committee immediately before the coming into force of this subsection, appointed by the senate or equivalent academic body of each university, are deemed to have been appointed pursuant to clause (1)(b).

6 Where a vacancy occurs among the members appointed pursuant to clause 4(1)(b) or (c), the minister of the province from which the member to be replaced was appointed may, subject to Section 4, appoint a person to fill the vacancy for

(a) the balance of the unexpired term of the member replaced; or

(b) a new term where the vacancy resulted from the expiration of a term.

7 A vacancy in the membership of the Commission does not impair the right of the remaining members to act so long as at least eleven members, excluding the Chief Executive Officer but including at least three members selected from each of the Provinces, hold office.

8 (1) Subject to subsection 5(2) and clause 6(a), a member of the Commission referred to in clause 3(2)(a) holds office for three years from the date of appointment or such lesser period as may be specified in the appointment.

(2) Notwithstanding subsection (1), a member of the Commission referred to in clause 3(2)(a) remains in office until the member resigns or is re-appointed or replaced.

(3) A member of the Commission referred to in clause 3(2)(a), on the expiration of the member's term of office, is eligible for re-appointment to the Commission.

9 Members of the Commission shall be paid such remuneration as may, with the approval of the Ministers, be determined by the Commission, and such actual and reasonable expenses as are incurred by them in the discharge of their duties.

10 (1) The position of Chair shall rotate, in turn, among the Provinces in the following order:

- (a) Province of New Brunswick;
- (b) Province of Prince Edward Island;
- (c) Province of Nova Scotia.

(2) In the order set out in subsection (1), each of the Ministers shall appoint, in turn, from among the members of the Commission selected from the minister's province, a Chair of the Commission.

(3) The Chair holds office as chair for a term of two years or until the expiry of the Chair's term as a member of the Commission, whichever occurs first.

(4) Notwithstanding subsection (3), the Chair remains in office as Chair until the Chair resigns or is replaced.

(5) The Chair of the Commission immediately before the coming into force of this subsection is deemed to have been appointed pursuant to subsection (2).

11 (1) The Ministers, on the recommendation of the Commission, shall appoint a Chief Executive Officer of the Commission.

(2) The Chief Executive Officer is, subject to the direction of the Commission, charged with the general direction, supervision and control of the business of the Commission and may exercise such other powers as may be conferred on the Chief Executive Officer by the Commission.

(3) The Chief Executive Officer shall serve as a full-time employee of the Commission.

(4) The Chief Executive Officer is a non-voting member of the Commission.

(5) The Chief Executive Officer immediately before the coming into force of this subsection is deemed to have been appointed pursuant to subsection (1).

12 (1) The Commission shall, in carrying out its duties, give first consideration to improving and maintaining the best possible service to students as life-long learners by

- (a) taking measures intended to ensure that programs of study are of optimum length and best quality;
- (b) stressing prior-learning assessment and recognition, and credit transfer, to implement the principle that duplication of effort is not required in order to gain credit for learning that has been successfully accomplished;
- (c) promoting smooth transitions between learning and work;
- (d) promoting equitable and adequate access to learning opportunities, including making those opportunities available at times and places convenient to the student; and
- (e) taking measures intended to ensure teaching quality.

(2) The Commission's principal duties are to

(a) undertake measures intended to ensure continuous improvement in the quality of academic programs and of teaching at institutions, which, without limiting the generality of the foregoing, may include the review of institutional programs and practices for assuring such improvement and making recommendations to institutions and the Provinces;

(b) ensure that data and information is collected, maintained and made available for assuring the public accountability of institutions, and to assist institutions and the Provinces in their work, which, without limiting the generality of the foregoing, may include

- (i) establishing data and system standards,
- (ii) establishing public reporting requirements and producing public reports, and
- (iii) carrying out studies in regard to public policy, institutional concerns and issues related to post-secondary education, and providing advice to institutions and the Provinces on these matters;

(c) take initiatives to stimulate co-operative action among institutions and the Provinces where such action is likely to improve the efficiency and effectiveness of the post-secondary education system in the Provinces, which, without limiting the generality of the foregoing, may include

- (i) encouraging initiatives for institutions to offer joint, complementary and regional programs, and
- (ii) encouraging administrative, financial and common service arrangements that reduce the overhead cost of programs and the overall cost to students and the Provinces;

(d) continue to develop and administer funding transfers among the Provinces for regional programs, which, without limiting the generality of the foregoing, may include developing and administering funding arrangements for programs outside the region, as required to provide additional educational opportunities for students from the region; and

(e) undertake such other duties as the Ministers may assign.

(3) The Commission may

(a) provide such services and functions as may be agreed upon by the Ministers to one or more institutions or to one or more of the Provinces;

(b) provide such advice and services, as may be agreed upon by the Ministers to one or more of the Provinces to determine their post-secondary education funding policy;

(c) recommend to the Ministers the names of post-secondary educational institutions that may be added to or deleted from those prescribed by the regulations for the purpose of the definitions of "institutions" and "universities".

13 (1) The Commission has all such powers as are necessary for, and ancillary to, the proper performance of its duties, including, but not limited to, the powers to

(a) engage staff;

(b) establish advisory committees;

(c) enter into contracts where and to the extent that funds have been made available for such purpose; and

(d) require the timely provision of data and information from institutions.

(2) Subject to this Act, the Commission may make by-laws respecting its internal organization and the conduct of its business, and may include in such by-laws provision for the election or designation of a Vice-chair of the Commission to act in the absence or disability of the Chair or when the office of Chair is vacant.

(3) The *Regulations Act* does not apply to by-laws made pursuant to subsection (2).

14 (1) All data received by the Commission from institutions or any other source, is confidential and shall not be disclosed, except as provided in this Section.

(2) Subject to subsection (3), the Commission may disclose, in aggregate form, data received by the Commission from institutions or any other sources.

(3) For the purpose of ensuring the protection of personal information, the Commission shall, before disclosing data received by the Commission from institutions or any other sources, remove any portion that would reveal personal information concerning any person.

15 The Commission shall meet at least four times each year at the call of the Chair.

16 Subject to Section 7, a majority of the members holding office, excluding the Chief Executive Officer, constitutes a quorum for the purpose of conducting a meeting if at least two members appointed from each province are present at such meetings.

17 The Commission is accountable to the Ministers.

18 (1) The determination of public funding levels for institutions is the sole responsibility of the Provinces.

(2) The Commission shall, when requested to do so by the Ministers, provide advice or services to the Ministers for determining post-secondary education funding policies and allocations.

19 (1) The fiscal year of the Commission commences on April 1st in each year and ends on March 31st in the immediately following year.

(2) The accounts of the Commission shall be audited in accordance with the procedure adopted for auditing the accounts of the Council.

(3) The Commission shall, within six months after the end of each fiscal year, submit to the Ministers and the Council a report containing

- (a) a review of the Commission's activities during the fiscal year;
- (b) statements and recommendations regarding such matters in the field of post-secondary education in the region as the Commission considers advisable; and
- (c) the audited financial statements of the Commission for the fiscal year.

(4) The annual report of the Commission shall be tabled in the House of Assembly as soon as is practicable after receipt by the Ministers.

20 No action or other proceeding lies against the Province, the Commission or any member or employee of the Commission, for any act done in good faith in the execution or intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power.

21 (1) The Governor in Council may make regulations

- (a) prescribing post-secondary educational institutions for the purpose of the definition of "institutions";
- (b) prescribing post-secondary educational institutions for the purpose of the definition of "universities".

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

22 **Chapter 270 of the Revised Statutes, 1989, the *Maritime Provinces Higher Education (Nova Scotia) Act*, is repealed.**

23 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
