



BILL NO. 84

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

An Act Respecting the Merger of the Nova Scotia Agricultural College with Dalhousie University

CHAPTER 3
ACTS OF 2012

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
MAY 17, 2012**

The Honourable John M^{ac}Donell
Minister of Agriculture

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

This page is intentionally blank.

An Act Respecting the Merger of the Nova Scotia Agricultural College with Dalhousie University

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Dalhousie University–Nova Scotia Agricultural College Merger Act*.

2 In this Act,

(a) “Agreement” means the agreement between the Minister and Dalhousie made pursuant to Section 4;

(b) “College” means the Nova Scotia Agricultural College situated at Bible Hill, in the County of Colchester, and established by the *Agriculture and Marketing Act*;

(c) “Dalhousie” means Dalhousie University, a body corporate and politic pursuant to the *Dalhousie–Technical University Amalgamation Act*;

(d) “designated employee” means a person who

(i) was an employee in the public service of the Province working at or providing services to the Department of Agriculture immediately before the coming into force of this Act,

(ii) was appointed in accordance with the *Civil Service Act*, and

(iii) is designated by the Minister to become an employee of the merged university;

(e) “merged university” means Dalhousie and the College as merged and continued by this Act;

(f) “merger date” means the date fixed by the regulations for the merger of the College with Dalhousie pursuant to this Act;

(g) “Minister” means the Minister of Agriculture, and includes the Minister of Agriculture acting on behalf of Her Majesty in right of the Province;

(h) “non-saleable adjustment quota” has the same meaning as in the *Total Production Quota Regulations* made pursuant to the *Dairy Industry Act*;

(i) “personal information” has the same meaning as in the *Freedom of Information Protection of Privacy Act*;

(j) “Quota” means non-saleable adjustment quota and total production quota held by Her Majesty in right of the Province;

(k) “total production quota” has the same meaning as in the *Total Production Quota Regulations* made pursuant to the *Dairy Industry Act*.

3 The purpose of this Act is to provide for and facilitate the merger of the College with Dalhousie.

4 For the purpose of this Act, the Minister may, before or after the coming into force of this Act, enter into an agreement with Dalhousie.

5 (1) Effective the merger date and in accordance with this Act and the Agreement, the College is merged with Dalhousie, which is continued as a body corporate and politic under a single board of governors and having the name Dalhousie University.

(2) Every Act of the Legislature respecting Dalhousie, including, without limiting the generality of the foregoing, Chapter 24 of the Acts of 1863, *An Act for the regulation and support of Dalhousie College*, continues to apply to the merged university.

(3) For greater certainty,

(a) the merged university is not

(i) an agent of Her Majesty in right of the Province,

(ii) a crown corporation within the meaning of the *Finance Act*, or

(iii) a department within the meaning of the *Finance Act*; and

(b) a person employed or engaged by the merged university is not an officer, servant or agent of Her Majesty in right of the Province.

(4) The Minister may make an order to effect or confirm the transfer of any funds, assets or liabilities from Her Majesty in right of the Province to Dalhousie pursuant to the Agreement.

6 (1) Notwithstanding the *Dairy Industry Act* and the regulations made pursuant to that Act, the Minister and Dalhousie may enter into an agreement to lease the Quota to the merged university.

(2) The lease agreement entered into pursuant to subsection (1) is not

(a) subject to the *Total Production Quota Regulations*; or

(b) for greater certainty, a TPQ lease within the meaning of the *Total Production Quota Regulations*.

(3) Subject to the lease agreement entered into pursuant to subsection (1), the Quota leased by the merged university under the lease agreement is deemed to have been allotted to the merged university in accordance with the *Dairy Industry Act* and the regulations made pursuant to that Act.

(4) The merged university has the same rights, privileges and obligations as a holder of the non-saleable adjustment quota and total production quota as the College would have had if the College had remained in existence and the lease agreement entered into pursuant to subsection (1) had not been executed.

7 (1) Section 7 of the *Dairy Industry Act* and Section 7 of the *Total Production Quota Regulations* do not apply to Her Majesty in right of the Province.

(2) Her Majesty in right of the Province is deemed to meet all of the criteria specified in subsection 4(1) of the *Total Production Quota Regulations*.

8 The merged university is deemed to hold a licence issued by a licensing authority for the purpose of the *Dairy Industry Act*.

9 (1) The Minister may, before or after the coming into force of this Act, transfer or disclose personal information to Dalhousie or the merged university for the purpose of this Act.

(2) Where the Minister transfers or discloses personal information to Dalhousie or the merged university, the Minister may impose such conditions on the transfer or disclosure as the Minister considers appropriate, including, without limiting the generality of the foregoing, conditions respecting non-disclosure to third parties.

(3) Dalhousie and the merged university shall comply with any conditions imposed pursuant to subsection (2) unless the permission of the Minister is obtained, regardless of whether the transfer or disclosure occurs before or after the coming into force of this Act.

(4) No person has or may maintain any cause of action or claim against Her Majesty in right of the Province, the Minister, the Department of Agriculture, Dalhousie or the merged university arising from or in relation to any transfer or disclosure of personal information by the Minister to Dalhousie or the merged university for the purpose of this Act, regardless of whether the transfer or disclosure occurs before or after the coming into force of this Act.

10 A disclosure to Dalhousie or the merged university of any material, before or after the coming into force of this Act, that is subject to any privilege or immunity, including solicitor-client privilege, litigation privilege, settlement privilege or public interest immunity, does not constitute a waiver of the privilege or immunity.

11 (1) Subject to the Agreement, the Minister may assign the rights and obligations in any agreement, by individual agreement or by class of agreement, between the Minister and a third party, that the Minister has entered into in relation to the College's former activities or mandate to the merged university on such terms and conditions as the Minister prescribes, and the merged university may enforce an agreement so assigned as if it were the Minister.

(2) Where the Minister assigns the rights and obligations in an agreement pursuant to subsection (1),

(a) the assignment may be carried out notwithstanding any restriction on assignment provided for under the agreement being assigned;

(b) the assignment is not subject to any notice requirement under the agreement being assigned or otherwise existing at law;

(c) the assignment need not be in writing notwithstanding any requirement in the agreement being assigned or otherwise existing at law; and

(d) no person has or may maintain any cause of action or claim against Her Majesty in right of the Province, the Minister, the Department of Agriculture or the merged university arising from or in relation to the assignment.

12 (1) Subject to the terms and conditions of the Agreement, every designated employee becomes an employee of the merged university and ceases to be a person appointed in accordance with the *Civil Service Act* on the date that the Minister indicates that the person is a designated employee.

(2) The continuity of employment of a designated employee is not broken by the effect of this Section.

(3) The *Civil Service Act*, the regulations made pursuant to that Act and the *Civil Service Collective Bargaining Act* do not apply to a designated employee.

(4) Every designated employee is deemed to have been employed by the merged university for the same period of employment that the person was credited with as an employee of Her Majesty in right of the Province.

13 (1) The merged university is bound by a collective agreement concluded pursuant to the *Civil Service Collective Bargaining Act* in relation to a designated employee as if it were a party to the collective agreement as the employer and as if the collective agreement were concluded pursuant to the *Trade Union Act* by a bargaining agent certified pursuant to the *Trade Union Act*.

(2) For greater certainty, the merged university is a transferee for the purpose of Section 31 of the *Trade Union Act* and, without limiting the generality of the foregoing, the merged university is bound by successor rights as determined pursuant to the *Trade Union Act*.

(3) Where notice to commence collective bargaining has been given in relation to a collective agreement respecting designated employees before the merger date, the merged university is the employer for the purpose of concluding and signing a collective agreement.

14 (1) Each designated employee who was an employee within the meaning of the *Public Service Superannuation Act* before the coming into force of this Act and each designated employee in a bargaining unit whose collective agreement provided for participation in the *Public Service Superannuation Plan* before the coming into force of this Act is deemed to continue to be a person employed in the public service of the Province for the purpose of the *Public Service Superannuation Act* and service in the employment of the merged university is deemed to be service in the public service of the Province.

(2) Notwithstanding subsection (1), Section 39 and clause 40(b) of the *Public Service Superannuation Act* do not apply to the merged university or designated employees unless the merged university advises the Minister of Finance, in writing, that those provisions apply.

15 The merged university is a successor employer for the purpose of the *Pension Benefits Act*.

16 (1) The Nova Scotia Agricultural College Foundation, established pursuant to the *University Foundation Act*, is dissolved.

(2) All right, title and interest of the Nova Scotia Agricultural College Foundation in any real or personal property is hereby vested in the Dalhousie University Foundation.

(3) All the obligations and liabilities of the Nova Scotia Agricultural College Foundation hereby become the obligations and liabilities of the Dalhousie University Foundation.

(4) In any document, including any deed, lease, agreement, will, trust, debenture or document evidencing a gift or bequest, a reference to the Nova Scotia Agricultural College Foundation, whether the reference is by official name or otherwise, is to be construed as a reference to Dalhousie University Foundation.

17 A reference to the College in any enactment is to be read and construed as a reference to the merged university.

18 Sections 77 and 78 of the *Finance Act* do not apply in respect of any net debt obligation or operating obligation entered into pursuant to this Act.

19 (1) The Governor in Council may, upon consultation with Dalhousie, make regulations fixing the merger date.

(2) The Governor in Council may make regulations

(a) respecting the application of the *Dairy Industry Act* and the regulations made pursuant to that Act to

- (i) Her Majesty in right of the Province,
- (ii) the merged university,
- (iii) an agreement made pursuant to subsection 6(1), or
- (iv) the Quota leased by the merged university under an agreement made pursuant to subsection 6(1);

(b) defining any word or expression used but not defined in this Act;

(c) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(3) The exercise by the Governor in Council of the authority contained in subsections (1) and (2) is a regulation within the meaning of the *Regulations Act*.

(4) For greater certainty, in the event of a conflict between a regulation made pursuant to clause (2)(a) and a regulation made pursuant to the *Dairy Industry Act*, the regulation made pursuant to clause (2)(a) prevails.

20 Section 99 and Part XVI of Chapter 6 of the Revised Statutes, 1989, the *Agriculture and Marketing Act*, are repealed.

21 Subsection 19B(1) of Chapter 5 of the Acts of 1993, the *Freedom of Information and Protection of Privacy Act*, is repealed.

22 Chapter 7 of the Acts of 2008, the *Nova Scotia Agricultural College Act*, is repealed.

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