



# **BILL NO. 57**

*Government Bill*

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*5th Session, 61st General Assembly  
Nova Scotia  
62 Elizabeth II, 2013*

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## **An Act Respecting Language Schools for International Students**

CHAPTER 5  
ACTS OF 2013

**AS ASSENTED TO BY THE ADMINISTRATOR OF THE PROVINCE  
MAY 10, 2013**

The Honourable Frank Corbett  
*Minister of Labour and Advanced Education*

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

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## **An Act Respecting Language Schools for International Students**

Be it enacted by the Governor and Assembly as follows:

**1** This Act may be cited as the *Language Schools Act*.

**2** The purpose of this Act is to ensure language schools provide quality English and French language programs along with adequate support services to international students in the Province.

**3** In this Act,

(a) “bridging language program” means a language program in which an international student is enrolled concurrently while attending a university, a community college or another institution in the Province designated in the regulations;

(b) “certificate of registration” means a certificate of registration issued or renewed pursuant to this Act that is not revoked;

(c) “Director” means the Director of the Private Career College Division at the Department of Labour and Advanced Education or such other person in the Department designated by the Minister;

(d) “Fund” means the Language Program Completion Fund established by this Act;

(e) “inspector” means a person appointed as an inspector by the Minister;

(f) “international student” means a person who is a foreign national studying in the Province;

(g) “language program” means either an English or French language program;

(h) “language school” means an institution offering language programs to international students on one or more campuses in the Province;

(i) “Minister” means the Minister of Labour and Advanced Education;

(j) “operator” means the owner of a language school or a person designated by the owner;

(k) “Senior Executive Director” means the Senior Executive Director of the Higher Education Branch at the Department of Labour and Advanced Education or such other person in the Department designated by the Minister;

(l) “student contract” means an agreement between a language school and an international student to provide a language program;

(m) “surety bond” means a bond, irrevocable letter of credit or other type of security approved by the Minister and prescribed by the regulations.

**4** This Act does not apply to

(a) language schools that do not accept international students; or

(b) bridging language programs offered by universities, community colleges or other institutions designated by the regulations.

**5** No person shall operate a language school for international students in the Province unless a certificate of registration has been issued for the language school.

**6** Every person who applies to register a language school for international students shall

- (a) complete and submit an application as prescribed by the regulations;
- (b) permit an inspector to inspect the premises to be used as a language school and the premises to be used for student housing;
- (c) provide confirmation that the language school is registered with the Registrar of Joint Stock Companies;
- (d) provide a copy of the language school's corporate ownership share register if applicable;
- (e) establish to the satisfaction of the Director that
  - (i) the language school meets the financial, human resources and administrative capacities prescribed by the regulations,
  - (ii) the language school has facilities and equipment as prescribed by the regulations to offer language programs,
  - (iii) the language school has policies and procedures, including policies or procedures regarding credential assessment, language testing and tuition payment and refund that satisfy the requirements as prescribed by the regulations,
  - (iv) the language school has adequate accommodation and support services for students as prescribed by the regulations, and
  - (v) the language school and the language program offered by the language school are eligible to be accredited by an accreditation agency approved by the Minister and listed in the regulations;
- (f) pay the application fee prescribed by the regulations;
- (g) post a surety bond with the Minister in an amount and in accordance with requirements prescribed by the regulations;
- (h) undertake to make the payments to the Fund required pursuant to this Act; and
- (i) satisfy any additional requirements prescribed by the regulations.

**7 (1)** Upon receiving a satisfactory inspection report prepared pursuant to clause 6(b), the Director shall register a language school that meets the criteria set out in this Act and the regulations by issuing a certificate of registration listing each individual campus location in the Province of the language school.

**(2)** Only campus locations listed on the certificate of registration may be used for a language school's language program.

(3) The certificate of registration may not be transferred or assigned.

(4) The certificate of registration must be displayed on each campus of the language school in a place clearly visible to the public.

(5) A certificate of registration issued by the Director remains in force until it expires on a date determined by the regulations or is revoked by the Director.

(6) A certificate of registration that has not been revoked may be renewed by following the process set out in the regulations.

**8** (1) The Director shall keep a register of all registered language schools.

(2) The Director shall strike from the register a language school whose registration is not renewed in accordance with the regulations.

(3) The Director shall strike from the register a language school whose registration has been revoked.

**9** (1) The Director may attach conditions or restrictions to a language school's certificate of registration.

(2) The Director may revoke or suspend a language school's certificate of registration for its operator's failure to comply with this Act, the regulations or conditions or restrictions attached to the certificate of registration.

(3) The Director shall give the operator 10 days written notice of the revocation or suspension of the language school's certificate of registration pursuant to subsection (2).

(4) Where a certificate of registration is revoked, the operator of the language school shall cease offering language programs to international students and surrender its certificate of registration to the Minister.

(5) Where a certificate of registration is suspended, the operator of the language school shall not accept new international students and shall fulfil all obligations to the international students enrolled in the language school at the time the certificate of registration is suspended.

**10** No person, including an agent of a language school, shall hold out a language school as registered unless the registration has been made pursuant to this Act.

**11** No person shall publish or cause to be published an advertisement relating to a language school that is misleading, tends to mislead or does not meet the advertising requirements prescribed by the regulations.

**12** The operator of a language school shall

- (a) keep and maintain at the language school's place of business student files, student records, attendance records, student transcripts, certificates, diplomas and all other student documentation prescribed by the regulations;
- (b) have a student contract with each international student as prescribed by the regulations;
- (c) before entering into the student contract pursuant to clause (b) provide to each international student a copy of the policies and procedures required by subclause 6(e)(iii);
- (d) report to the Minister on its activities, operations and any changes to the corporate ownership share register as prescribed by the regulations;
- (e) provide annually its financial statements along with any other reporting documentation as set out in the regulations;
- (f) at the request of the Minister, immediately make available to the Minister any documents or records;
- (g) comply with all applicable federal, provincial and municipal laws; and
- (h) satisfy any additional requirements as set out in the regulations.

**13** The operator or agent of a language school shall not engage in any student recruiting practices that are misleading or contrary to the requirements prescribed by the regulations.

**14 (1)** A complaint against a language school may be initiated by any person.

**(2)** A complaint must be in writing, signed by the complainant and filed with the Director in accordance with the regulations.

**(3)** Within seven days of receipt of the complaint, the Director shall dismiss a complaint if it is

- (a) frivolous or vexatious,
- (b) not advanced in good faith, or
- (c) not within the jurisdiction of the Director.

**(4)** Where a complaint is not dismissed by the Director pursuant to subsection (3), the Director shall

- (a) advise the operator of the language school that a complaint alleging a violation of the Act or the regulations has been received;
- (b) disclose to the operator of a language school the information received respecting the alleged violation of the Act or the regulations, in the form prescribed by the regulations; and
- (c) advise the operator of the language school that a written response may be filed in accordance with the regulations.

**(5)** Within 14 days of receipt of the complaint or within seven days of the date of the Director's decision not to dismiss the complaint pursuant to subsection (3), whichever is earlier, the Director shall

- (a) informally resolve the complaint; or
- (b) make an order dismissing the complaint or doing one or more of the following:
  - (i) giving clear directions that certain immediate actions be taken by the language school,
  - (ii) imposing conditions or restrictions on the language school's certificate of registration,
  - (iii) suspending or revoking the language school's certificate of registration,
  - (iv) reinstating a dismissed international student until all appeals and reviews have been completed,
  - (v) imposing restrictions on the language school's advertising,
  - (vi) directing the operator of the language school to reimburse all or a portion of the tuition and other program costs paid by an international student to the student,
  - (vii) directing the release of all or a portion of the surety bond posted pursuant to clause 6(g),
  - (viii) granting any other remedy that is just and reasonable in the circumstances.

**(6)** The decision or order of the Director made pursuant to subsection (4) must be in writing and must be sent to the parties by registered mail, personal service or such other method as is prescribed by the regulations.

**15 (1)** An affected party may request a review by the Senior Executive Director of the Director's

- (a) decision imposing conditions or restrictions on a language school's certificate of registration pursuant to subsection 9(1);
- (b) decision to revoke or suspend a language school's certificate of registration pursuant to subsection 9(2);
- (c) decision or order made pursuant to subsection 14(5); and
- (d) administrative sanction issued pursuant to subsection 23(1).

**(2)** The request for a review must be in writing, signed by the party and filed in accordance with the regulations with the Senior Executive Director no later than seven days from the date on which the decision or order of the Director referred to in subsection (1) was sent.

**(3)** Upon the filing of the request for a review, the Senior Executive shall advise the parties of the review procedures prescribed by the regulations.

**(4)** Within 14 days of receipt of the request for a review, the Senior Executive Director shall confirm, reverse or vary the decision or order being reviewed.

**(5)** The decision of the Senior Executive Director must be in writing and must be sent to the parties by registered mail, personal service or such other method as is prescribed by the regulations.

**16 (1)** The Minister shall appoint inspectors for the purpose of this Act.

**(2)** The Minister may delegate to any person any power conferred or duty imposed on the Minister by this Act.

**17 (1)** Subject to subsection (2), an inspector may, at any reasonable time, enter upon the premises of a language school to make an inspection for the purpose of this Act or the regulations.

**(2)** An inspector may not enter a private dwelling or student housing premises in which an international student resides except

- (a) with the consent of the principal occupant of the dwelling or premises; or
- (b) pursuant to an order to enter and inspect obtained pursuant to Section 18.

**(3)** An inspector, on the request of a person occupying the premises, shall produce the identification provided by the Director for this purpose.

**(4)** An inspector has such other powers and duties as are prescribed by the regulations.

**(5)** Upon an inspection under this Section, an inspector may

- (a) require the production of any documents or records for inspection and copying;
- (b) inspect the physical premises and equipment; and
- (c) inquire into matters that relate to compliance with the requirements of this Act or the regulations.

**18 (1)** Notwithstanding anything contained in this Act, where a justice is satisfied on evidence under oath by an inspector that

- (a) there are reasonable grounds to believe that it is appropriate for the administration of this Act for the inspector to do anything set out in Section 17; and
- (b) the inspector may not be able to carry out duties under this Act effectively without an order under this Section because
  - (i) no person is present to grant access to premises that are locked or otherwise inaccessible,



(ii) a person has denied the inspector access to premises or there are reasonable grounds for believing that a person may deny the inspector access to premises,

(iii) a person has prevented the inspector from doing anything set out in Section 17 or denied the inspector access to any thing, as a result of which the inspector is unable to do anything set out in Section 17,

(iv) there are reasonable grounds to believe that a person may prevent an inspector from doing anything set out in Section 17, or may deny the inspector access to any thing as a result of which the inspector may be unable to do anything set out in Section 17,

(v) it is unpractical, because of the remoteness of the premises to be inspected or because of any other reason, for the inspector to obtain an order under this Section without delay if access is denied, or

(vi) there are reasonable grounds to believe that an attempt by the inspector to do anything set out in Section 17 without the order might defeat the purpose of that Section or cause an adverse effect,

the judge may issue an order authorizing the inspector to do anything set out in Section 16 that is specified in the order for the period set out in the order.

(2) The period referred to in subsection (1) may not extend beyond 30 days after the date on which the order is made, but the order may be renewed for any reason set out in subsection (1) for one or more periods, each of which may not be more than 30 days.

(3) An application pursuant to subsection (2) may be made before or after the expiry of the period.

(4) An order under this Section may be issued or renewed on application without notice.

**19 (1)** There is hereby established a trust fund within the meaning of the *Finance Act* to be known as the Language Program Completion Fund.

(2) The Fund consists of

- (a) fees that operators are required by the regulations to pay into the Fund;
- (b) donations to the Fund; and
- (c) any income and earnings from investments of the Fund.

(3) The Minister of Finance shall administer the Fund.

(4) Subject to the approval of the Minister of Finance, the Minister may direct payments out of the Fund to

- (a) compensate international students who have entered into a student contract with an operator who is unable to meet the requirements of the student contract;
- (b) compensate third party sponsors who have paid tuition on behalf of an international student;

- (c) pay for the expenses of administering and auditing the Fund; and
- (d) do any other thing relating to a language school that is necessary to effectively carry out the intent and purpose of this Act.

**(5)** The Minister of Finance may

- (a) invest any monies of the Fund in any investments that are authorized for the investment of monies in the General Revenue Fund of the Province;

- (b) dispose of the investments in the manner and on terms that the Minister of Finance considers appropriate and invest the proceeds in other investments authorized pursuant to clause (a);

- (c) pay for the expenses of administering and auditing the Fund; and

- (d) do any other thing that is prescribed by the regulations.

**(6)** In each fiscal year the Minister of Finance shall prepare and submit to the Minister a financial statement showing the business of the Fund for the preceding fiscal year and the Minister shall publish the report.

**(7)** The fiscal year of the Fund is the same as the fiscal year of the Province.

**(8)** No action may be brought against Her Majesty in right of the Province for claims against the Fund.

**20 (1)** Every person who

- (a) operates a language school without a valid certificate of registration;

- (b) knowingly furnishes false information in any application under this Act or the regulations or in any statement or return required to be furnished under this Act or the regulations;

- (c) obstructs, misleads, interferes or otherwise refuses to comply with an inspector in the exercise of a power granted pursuant to this Act;

- (d) fails to comply with an order of the Director; or

- (e) otherwise contravenes this Act or the regulations,

is guilty of an offence and liable on summary conviction to a fine of not more than \$100,000 and, in default of payment, to imprisonment for a period not exceeding six months.

**(2)** A prosecution for an offence pursuant to this Act may not be commenced more than two years from the date of the alleged offence.

**(3)** Where a corporation commits an offence under this Act or the regulations, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the violation of this Act or the regulations is guilty of the offence and is liable to the punishment provided for the offence, whether or not the corporation has been prosecuted.

**21 (1)** In the event of a threatened or a continuing contravention of this Act or the regulations, the Minister may file an application to be heard by a judge of the Supreme Court of Nova

Scotia for an injunction to restrain the person from continuing or committing the contravention and, where the judge considers it to be just, the judge may grant such injunction.

**(2)** A judge may, on motion, grant an interim injunction pending the hearing of an application for an injunction pursuant to subsection (1) if the judge is satisfied that there is reason to believe that a person is likely to commit or is continuing to commit a contravention of this Act or the regulations.

**22 (1)** Where the Director is of the opinion that a person has failed to comply with this Act or the regulations, the Director may issue an order in writing requiring compliance immediately or within such period of time as the Director specifies.

**(2)** An order to comply issued pursuant to subsection (1) must

(a) indicate the nature of the non-compliance and state the provisions of this Act or the regulations that were contravened; and

(b) state that failure to follow the order may result in the Director

(i) issuing a notice and imposing an administrative sanction as set out in the regulations, or

(ii) laying a charge for failure to comply with the Act or the regulations.

**23 (1)** Where a person fails to follow an order to comply issued pursuant to Section 22, the Director may issue a notice in writing imposing an administrative sanction as set out in the regulations.

**(2)** The notice referred to in subsection (1) must

(a) include a copy of the order to comply issued pursuant to Section 22;

(b) provide details of the person's failure to comply with the order referred to in clause (a);

(c) provide a clear description of the administrative sanction;

(d) state when and how the administrative sanction can be satisfied;

(e) state the date by which any monetary sanction must be paid; and

(f) provide the manner in which the person may request a review of the administrative sanction by the Senior Executive Director no later than seven days from the date of the notice referred to in subsection (1).

**(3)** A person who satisfies the administrative sanction pursuant to this Section may not be charged with an offence respecting the matter that gave rise to the administrative sanction.

**24 (1)** The Minister may make regulations

(a) establishing a listing of approved accreditation agencies for language schools and language programs;

- (b) respecting the designation of institutions offering a bridging language program;
- (c) respecting application forms and fees;
- (d) prescribing the form and content of a certificate of registration including the expiry date of the certificate;
- (e) establishing procedures and criteria for the renewal of a certificate of registration;
- (f) prescribing criteria for the revocation or suspension of a certificate of registration;
- (g) respecting files, forms, records and documents relating to students to be kept at the place of business of the language school;
- (h) prescribing the form and content of the student contract;
- (i) prescribing the content of the report required for the purpose of clause 12(d);
- (j) prescribing reporting documents required for the purpose of clause 12(e);
- (k) prescribing the procedures for filing, responding to, processing and disposing of a complaint for the purpose of Section 14;
- (l) prescribing the procedure for filing a request for review and establishing review procedures for the purpose of Section 15;
- (m) prescribing methods of notifying parties of a decision or order;
- (n) prescribing the fees that operators are required to pay into the Fund.

(2) The exercise by the Minister of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

**25 (1)** The Governor in Council may make regulations

- (a) establishing registration criteria for language schools;
- (b) establishing the financial, human resources and administrative capacities required of language schools;
- (c) prescribing policies and procedures including policies or procedures regarding credential assessment, language testing and tuition payment and refund;
- (d) establishing criteria for adequate student accommodation and support services;
- (e) regarding student recruiting practices;
- (f) authorizing the Director to determine whether recruiting practices are misleading or contrary to these regulations, for the purpose of a complaint, revocation or suspension pursuant to this Act;
- (g) prescribing the form for the disclosure of the information for the purpose of clause 14(4)(b);

(h) prescribing the form, amount and requirements for the security to be posted by a person who applies to register a language school;

(i) respecting the Fund;

(j) regulating the content of language-school advertising;

(k) authorizing the Director to determine whether an advertisement is misleading, tends to mislead or does not meet the advertising requirements prescribed by these regulations for the purpose of a complaint, revocation or suspension pursuant to this Act;

(l) prescribing powers and duties of inspectors;

(m) respecting administrative sanctions;

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

(o) further defining any word or expression defined in this Act;

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

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

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

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