



BILL NO. 216

Government Bill

*1st Session, 64th General Assembly
Nova Scotia
1 Charles III, 2022*

An Act to Establish Build Nova Scotia

CHAPTER 34
ACTS OF 2022

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
NOVEMBER 9, 2022**

The Honourable Kim Masland
Minister of Public Works

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

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An Act to Establish Build Nova Scotia

Be it enacted by the Governor and Assembly as follows:

- 1** This Act may be cited as the *Build Nova Scotia Act*.
- 2** In this Act,
 - (a) “Advisory Board” means the Advisory Board of the Corporation;
 - (b) “Corporation” means Build Nova Scotia;
 - (c) “Deputy Minister” means the Deputy Minister of Public Works;
 - (d) “former corporation” means Nova Scotia Lands Incorporated, registered under the *Companies Act*, or Develop Nova Scotia, continued under the *Develop Nova Scotia Act*;
 - (e) “Minister” means the Minister of Public Works;
 - (f) “strategic infrastructure” has the meaning defined in the regulations.
- 3** The Minister has the general supervision and management of this Act.
- 4** Upon the coming into force of this Act,
 - (a) the former corporations are amalgamated and continued as a body corporate with share capital, to be known as Build Nova Scotia;
 - (b) all shares of the former corporations are cancelled;
 - (c) the registration of Nova Scotia Lands Incorporated under the *Companies Act* is revoked;
 - (d) all matters, affairs and actions of the former corporations are assigned to the Corporation;
 - (e) all assets of the former corporations, including all the rights, titles and interests of the former corporations, are vested in the Corporation;
 - (f) all obligations and liabilities of the former corporations are the obligations and liabilities of the Corporation; and
 - (g) subject to Section 5, a reference in any enactment or document to a former corporation is to be read and construed as a reference to the Corporation, unless a contrary intention appears.
- 5**
 - (1)** Any agreement to which a former corporation is a party that is in effect immediately before this Act comes into force is assigned to the Corporation and the Corporation is bound by and may enforce the agreement as if it were an original party.
 - (2)** Where an agreement is assigned under subsection (1),
 - (a) the assignment may be carried out notwithstanding any restriction on the assignment under any agreement, contract or enactment;

(b) the assignment is not subject to any requirement for notice that may exist in any agreement, contract or enactment;

(c) the assignment is not required to be in writing, notwithstanding any requirement to the contrary in any agreement, contract or enactment; and

(d) no person has or may maintain any cause of action or claim against His Majesty in right of the Province, the Minister, the Department of Public Works or the Corporation arising from or in relation to the assignment.

6 Any act or thing done by or on behalf of the Corporation or a former corporation before this Act comes into force is ratified and confirmed.

7 The capital stock of the Corporation is one share with a par value of one dollar, to be issued and registered in the name of His Majesty in right of the Province as represented by the Minister.

8 The Corporation is an agent of His Majesty in right of the Province.

9 The objects of the Corporation are to implement the policy objectives and priorities of the Government with respect to strategic infrastructure, including

(a) planning, designing, building, operating and preserving economically vibrant, sustainable and inclusive communities;

(b) acquiring, holding, managing, improving, developing or disposing of, whether directly or in partnership with the private sector, strategic infrastructure;

(c) providing services and programs relating to and promoting the development of quality and sustainable strategic infrastructure throughout the Province;

(d) communicating and collaborating with communities, municipalities and others to optimize strategic infrastructure;

(e) leading the implementation of the Government's strategy to expand telecommunications infrastructure to enable access to global information and communication networks throughout the Province;

(f) exercising and performing the functions and duties conferred on it by this Act, the regulations, the business plan of the Corporation and the strategic plan of the Corporation; and

(g) fulfilling such other roles and responsibilities as may be assigned to the Corporation by the Minister.

10 The Corporation may

(a) employ and contract with, in accordance with the *Personal Contract Service Regulations* made under the *Public Service Act*, such persons as it may require for the purpose of carrying out its objects;

(b) plan, design, build, develop, acquire, hold, manage, improve, remediate, lease, dispose of and otherwise deal with any personal and real property or any interest therein;

(c) where directed by the Minister, provide such programs and services as the Minister considers desirable;

(d) with the approval of the Minister, enter into agreements for the purpose of this Act with any person or body, including a federal, provincial or municipal government or any department or agency thereof;

(e) with the consent of the Minister, provide security or guarantee the payment or performance of the obligations of any other person;

(f) do such other things as may be incidental or conducive to carrying into effect the purpose and intent of this Act or of the regulations; and

(g) exercise such other powers as may be prescribed by the regulations.

11 (1) The management and control of the affairs of the Corporation are vested in the Minister.

(2) The Minister may exercise the powers of the Corporation subject to this Act and the regulations.

12 (1) The Governor in Council shall appoint a Chief Executive Officer of the Corporation.

(2) The Chief Executive Officer reports to the Deputy Minister.

(3) The Chief Executive Officer shall perform such duties as the Minister may determine.

13 The Corporation has an Advisory Board that provides advice and recommendations to further the Corporation's objects.

14 (1) The Advisory Board consists of not more than 10 members appointed by the Governor in Council.

(2) Advisory Board members hold office for such period of time as determined by the Governor in Council and may be reappointed.

15 The Governor in Council shall appoint a Chair and Vice-chair of the Advisory Board, who hold office for such period of time as determined by the Governor in Council.

16 A vacancy on the Advisory Board does not impair the right of the remaining members to act.

17 Each Advisory Board member is entitled to such remuneration and reimbursement of expenses as is determined by the Governor in Council.

18 Subject to the approval of the Deputy Minister, the Advisory Board may

(a) avail itself of the services of employees of the Corporation; and

(b) appoint an employee of the Corporation to act as Secretary of the Advisory Board.

19 A majority of Advisory Board members constitutes a quorum.

20 The Deputy Minister and Chief Executive Officer of the Corporation may attend meetings of the Advisory Board but the Deputy Minister and Chief Executive Officer

- (a) are not members of the Advisory Board; and
- (b) may not vote at meetings of the Advisory Board.

21 A member of the Advisory Board shall, when exercising the powers and performing the duties of the member's position,

- (a) act honestly and in good faith with a view to the best interests of the Corporation;
- (b) exercise the care, diligence and skill that a reasonably prudent individual would exercise in comparable circumstances; and
- (c) act in accordance with this Act and the regulations.

22 The Advisory Board shall

- (a) report to the Minister through the Chief Executive Officer;
- (b) advise the Minister on such matters related to strategic infrastructure in the Province as are referred by the Minister to the Board for consideration; and
- (c) bring to the attention of the Minister matters of interest and concern to the public or other stakeholders respecting strategic infrastructure in the Province.

23 The Advisory Board may pass resolutions to document its recommendations to the Minister but, for greater certainty, the Minister is not bound by any recommendation or resolution of the Board.

24 The Minister may make by-laws, not inconsistent with this Act, respecting the internal organization and procedures of the Advisory Board, subject to the approval of the Governor in Council.

25 (1) The Minister may issue such policy directions to the Advisory Board as are consistent with this Act if, in the opinion of the Minister, it is in the public interest to do so.

(2) The Advisory Board shall comply with a direction issued under subsection (1).

26 The fiscal year of the Corporation is the same as that of the Province.

27 The Corporation's system of accounting is subject to the approval of the Minister of Finance and Treasury Board.

28 The Corporation, its property and its assets are not subject to taxation.

29 (1) Annually as required by the Minister, the Corporation shall submit to the Minister for approval a detailed business plan for the Corporation for the following fiscal year.

(2) The business plan must contain such information as required by the Minister.

30 When required by the Minister, the Corporation shall submit to the Minister for approval a multi-year strategic plan for the operation of the Corporation.

31 The Advisory Board is a department for the purpose of the definition of “department” in the *Conflict of Interest Act* and, for greater certainty, Section 22 of that Act applies to Advisory Board members.

32 The Corporation is a public body as defined in the *Freedom of Information and Protection of Privacy Act* and, for greater certainty, that Act applies to the Corporation.

33 Section 44A of the *Civil Service Act* applies with necessary changes to the Corporation and the Advisory Board.

34 (1) The *Proceedings against the Crown Act* applies to actions and proceedings against the Corporation.

(2) For the purpose of this Section, a reference in the *Proceedings against the Crown Act* to

(a) the Crown is to be construed as a reference to the Corporation; and

(b) the General Revenue Fund of the Province is to be construed as a reference to the funds of the Corporation.

(3) In proceedings under this Section, an action must be brought against the Corporation in the name of the Corporation.

(4) Where a document or notice is to be served upon or given to the Corporation pursuant to this Section or the *Proceedings against the Crown Act*, it may be served by delivering a copy to the office of the Attorney General or the Deputy Attorney General or any other lawyer employed in the Department of the Attorney General or by delivering a copy to a lawyer designated for that purpose by the Attorney General and such service is deemed to be service on the Corporation.

35 (1) The Governor in Council may make regulations

(a) respecting the powers, duties and activities of the Corporation;

(b) respecting any matter authorized by this Act to be done by regulation;

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

(d) respecting any matter or thing that 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 power conferred under subsection (1) is a regulation within the meaning of the *Regulations Act*.

- 36** (1) On the coming into force of this Act, every employee of a former corporation
- (a) ceases to be an employee of the former corporation and becomes an employee of the Corporation;
 - (b) is employed by the Corporation on the same or equal terms and conditions of employment as those under which the employee was employed by the former corporation, until changed by contract of employment;
 - (c) is deemed to have been employed with the Corporation for the same period of employment that the employee was credited with as an employee of the former corporation; and
 - (d) is entitled to all vacation leave accumulated, less any vacation arrears that accrued, while the employee was employed by the former corporation.

(2) The continuity of employment of an employee transferred under this Section is not broken by the effect of this Section.

(3) The obligations and liabilities of the former corporations in respect of their employees are the obligations and liabilities of the Corporation, including all employee benefits and entitlements.

- (4) For greater certainty, the operation of this Section is deemed not to
- (a) constitute a termination, constructive dismissal or lay off of any employee;
 - (b) constitute a breach, termination, repudiation or frustration of any contract;
 - (c) constitute an event of default or *force majeure* under any contract; or
 - (d) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right, or to any right to terminate or repudiate a contract, licence, permit or other right, or to any estoppel.

37 Each employee of the Corporation who, before the coming into force of this Act, was an employee within the meaning of the *Public Service Superannuation Act* or was included in a bargaining unit whose collective agreement provided for participation in the Public Service Superannuation Plan is deemed to continue to be an employee in the public service of the Province for the purpose of the *Public Service Superannuation Act*, and service in the employment of the Corporation is deemed to be service in the public service of the Province for the purpose of that Act.

38 Subject to any applicable collective agreement or contract of employment, each employee of the Corporation who, before the coming into force of this Act, was covered by the Nova Scotia Public Service Long Term Disability Plan or was included in a bargaining unit whose collective agreement provided for long-term disability benefits under the Plan is deemed to continue to be a person to whom the Plan applies.

39 The *Civil Service Act* and the regulations made under that Act and the *Civil Service Collective Bargaining Act* do not apply to employees of the Corporation.

40 Where, at retirement, an employee transferred under Section 36 would have been eligible for a public service award pursuant to the *General Civil Service Regulations* made pursuant to the *Civil Service Act* if the person had remained as an employee of the Province, His Majesty in right of the Province shall pay to the person, on retirement, an amount equivalent to the amount of the public service award that it would have paid to the person for the person's years of employment as an employee of the Province.

41 Chapter 25 of the Acts of 2018, the *Develop Nova Scotia Act*, is repealed.

42 The Act has effect on and after December 1, 2022.
