



BILL NO. 196

Government Bill

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

An Act to Amend Chapter 22 of the Revised Statutes, 1989, the Art Gallery of Nova Scotia Act

CHAPTER 42
ACTS OF 2022

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

The Honourable Pat Dunn
Minister of Communities, Culture, Tourism and Heritage

*Halifax, Nova Scotia
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**An Act to Amend Chapter 22
of the Revised Statutes, 1989,
the Art Gallery of Nova Scotia Act**

Be it enacted by the Governor and Assembly as follows:

1 Section 2 of Chapter 22 of the Revised Statutes, 1989, the *Art Gallery of Nova Scotia Act*, as amended by Chapter 54 of the Acts of 2012, is further amended by

- (a) striking out “Governors” in the first line of clause (a) and substituting “Directors”;**
- (b) adding immediately after clause (a) the following clause:**
 - (aa) “director” means a member of the Board;
- (c) striking out clause (c); and**
- (d) adding “, Tourism” immediately after “Culture” in the first and second lines of clause (e).**

2 Section 4 of Chapter 22 is repealed and the following Section substituted:

- 4 (1) The Art Gallery of Nova Scotia, a body corporate, is continued.
- (2) The Gallery is an agency of the Province acting as a custodian for the people of the Province with respect to their collection of visual art and, as such, it shall
 - (a) provide access to;
 - (b) collect;
 - (c) preserve;
 - (d) exhibit; and
 - (e) interpret,

works of visual art in a regional, national and international context relevant to the communities of and in the Province.

3 (1) Subsection 5(1) of Chapter 22, as enacted by Chapter 54 of the Acts of 2012, is amended by striking out “Governors” in the second line and substituting “Directors”.

(2) Subsection 5(2) of Chapter 22 is repealed and the following subsection substituted:

- (2) The Board is composed of
 - (a) not fewer than seven and not more than 13 persons appointed by the Governor in Council; and

(b) honorary directors as provided in subsection 9(4), as non-voting members.

(3) Subsection 5(3) of Chapter 22, as amended by Chapter 5 of the Acts of 2016, is further amended by striking out “governor” the first time it appears in the first line and substituting “director”.

(4) Subsection 5(4) of Chapter 22 is repealed.

(5) Subsection 5(5) of Chapter 22 is amended by striking out “governor” in the first line and substituting “director”.

(6) Section 5 of Chapter 22, as amended by Chapter 54 of the Acts of 2012 and Chapter 5 of the Acts of 2016, is further amended by adding immediately after subsection (5) the following subsections:

(6) Notwithstanding subsection (3), the Governor in Council may extend the term of a director appointed pursuant to subsection (3) for one year if necessary for continuity.

(7) A majority of the voting members of the Board constitutes a quorum.

4 Chapter 22 is further amended by adding immediately after Section 5 the following Section:

5A (1) The Board shall appoint a committee to assist in the recruitment, screening and recommendation of new members of the Board as requested by the Minister.

(2) When making recommendations under subsection (1), the committee shall endeavour to recommend candidates who reflect the diversity of Nova Scotian society.

5 (1) Subsection 6(1) of Chapter 22 is amended by

(a) striking out “governor” in the first line and substituting “director”; and

(b) striking out “his services as a governor” in the second and third lines and substituting “services as a director”.

(2) Subsection 6(2) of Chapter 22 is amended by striking out “governor” in the second line and substituting “director”.

6 Section 7 of Chapter 22 is repealed and the following Section substituted:

7 (1) Subject to subsection (2), the Board shall appoint a person who is not a member of the Board to be the Chief Executive Officer of the Gallery.

(2) The appointment of the Chief Executive Officer is subject to the approval of the Minister.

(3) The Board may revoke the appointment of the Chief Executive Officer, subject to the approval of the Minister.

(4) The Board may assign to the Chief Executive Officer such duties as the Board determines.

7 Section 8 of Chapter 22 is repealed and the following Sections substituted:

8 (1) In this Section and Sections 8A to 8D, “designated person” means an employee of the Province who was appointed in accordance with the *Civil Service Act* and is determined to become an employee of the Gallery.

(2) The Minister shall determine who becomes a designated person.

(3) Every designated person is an employee of the Gallery and ceases to be a person appointed in accordance with the *Civil Service Act*.

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

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

(6) 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;

(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.

8A (1) Every designated person is employed by the Gallery on the same or equal terms and conditions of employment as those under which the employee was employed as an employee by the Crown in right of the Province until changed by collective agreement or contract of employment.

(2) Every person on becoming a designated person is deemed to have been employed with the Gallery for the same period of employment that the employee was credited with as an employee of the Province.

(3) The Gallery is bound by a collective agreement concluded pursuant to the *Civil Service Collective Bargaining Act* in relation to a designated person 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*.

(4) For greater certainty, the Gallery is a transferee for the purpose of Section 31 of the *Trade Union Act*.

(5) A designated person is entitled as an employee of the Gallery to all vacation leave accumulated, less any vacation arrears that accrued, while the designated person was an employee of the Province.

(6) Subject to any applicable collective agreement or contract of employment, each designated person who, before being designated, 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 Nova Scotia Public Service Long Term Disability Plan is deemed to continue to be a person to whom the Nova Scotia Public Service Long Term Disability Plan applies.

(7) The obligations and liabilities of the Crown in right of the Province with respect to designated persons are the obligations and liabilities of the Gallery, including all employee benefits and entitlements.

8B Where, at retirement from the Gallery, a designated person 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, the Crown in right of the Province shall pay to the person upon 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.

8C Each designated person who, before being designated, 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 for the purpose of the *Public Service Superannuation Act*, and service in the employment of the Gallery is deemed to be employment for the purpose of that Act.

8D Except where otherwise provided by a collective agreement or contract of employment, any person who becomes an employee of the Gallery after the coming into force of this Section is deemed to be an employee for the purpose of the *Public Service Superannuation Act*, and

- (a) that person's employment with the Gallery is deemed to be employment for the purpose of that Act; and
- (b) the Gallery is deemed to be an employer for the purpose of that Act with respect to that person.

8 (1) Subsection 9(1) of Chapter 22 is amended by

- (a) striking out "governors" in the second line and substituting "directors"; and**
- (b) striking out "Chairman" in the second line and substituting "Chair".**

(2) Subsection 9(2) of Chapter 22 is repealed.

(3) Subsection 9(3) of Chapter 22 is amended by

- (a) striking out "other officers and" in the first and second lines; and**
- (b) striking out "governors" in the last line and substituting "directors".**

(4) Subsection 9(4) of Chapter 22 is repealed and the following subsection substituted:

(4) Honorary governors appointed pursuant to this Act before January 1, 2022, continue as honorary directors for such period as is described in the order in council setting out their appointment.

9 Section 11 of Chapter 22, as amended by Chapter 54 of the Acts of 2012 and Chapter 5 of the Acts of 2016, is further amended by striking out “and exhibition” in the second and third lines of clause (a) and substituting “, exhibition and interpretation”.

10 Section 11A of Chapter 22, as enacted by Chapter 54 of the Acts of 2012 and amended by Chapter 5 of the Acts of 2016, is further amended by adding immediately after clause (gb) the following clause:

(gc) carry out activities that generate contributed or earned funds to be used for the purpose of the Gallery;

11 (1) Subsection 12(2) of Chapter 22 is amended by striking out “Her Majesty” in the third line and substituting “the Crown”.

(2) Section 12 of Chapter 22, as amended by Chapter 54 of the Acts of 2012, is further amended by adding immediately after subsection (3) the following subsection:

(4) A registered charity, within the meaning of the *Income Tax Act* (Canada), that is established to raise funds for the benefit of the Gallery shall annually provide the Gallery with copies of its year-end financial statements.

12 Section 16 of Chapter 22 is repealed and the following Section substituted:

16 Annually as required by the Minister, the Gallery shall submit to the Minister for approval

- (a) an accountability report for the previous fiscal year;
 - (b) a detailed business plan for the following year; and
 - (c) such other reports as the Minister directs.
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