

Atlantic Provinces Special Education Authority Act

CHAPTER 194 OF THE REVISED STATUTES, 1989

as amended by

1990, c. 29; 2010, c. 53, ss. 1-4, 6-11; 2011, c. 51, ss. 1-11;
2018, c. 1, Sch. A, s. 102



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An Act Respecting the Atlantic Provinces Special Education Authority

title amended 2010, c. 53, s. 1.

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Atlantic Provinces Special Education Authority Act*. R.S., c. 194, s. 1; 2010, c. 53, s. 2.

Purpose of Act

2 The purpose of this Act is to provide through the co-operative efforts of the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador educational services, programs and opportunities for persons with a low-incidence sensory impairment in the said Provinces and for facilities and personnel for the operation and administration of the same and for the financing thereof. R.S., c. 194, s. 2; 2010, c. 53, s. 3.

Interpretation

3 In this Act,

- (a) “Atlantic Provinces” means the Provinces of Nova Scotia, New Brunswick, Prince Edward Island and Newfoundland and Labrador;
- (b) “Authority” means the Atlantic Provinces Special Education Authority;
- (c) “Board” means the Board of Directors of the Atlantic Provinces Special Education Authority;
- (ca) “centre” means a centre established for the purpose of this Act;
- (d) “Government” means the Government of Nova Scotia;
- (e) *repealed 2010, c. 53, s. 4.*
- (f) *repealed 1990, c. 29, s. 1.*
- (g) “Minister” means the Minister of Education;
- (ga) “person with a low-incidence sensory impairment” means a person who is deaf, deaf-blind, hard of hearing, blind or visually impaired and, except in subsection (3) of Section 11, under the age of twenty-one years;
- (h) “Province” means the Province of Nova Scotia;
- (i) *repealed 1990, c. 29, s. 1.*
- (j) *repealed 2011, c. 51, s. 1.*

(k) “twenty-one years” means twenty-one years and, for the purpose of this Act, Section 3 of the *Age of Majority Act* does not apply. R.S., c. 194, s. 3; 1990, c. 29, s. 1; 2010, c. 53, s. 4; 2011, c. 51, s. 1.

References to school board, superintendent and chairman

3A In this Act, as the circumstances require,

(a) a reference to a school board is to be read as a reference to an education entity, as defined in the *Education Act*;

(b) a reference to a superintendent is to be read as a reference to a regional executive director of education, as defined in the *Education Act*; and

(c) a reference to a chairman of a school board is to be read a reference to the Minister. 2018, c. 1, Sch. A, s. 102.

SPECIAL EDUCATION AUTHORITY

Atlantic Provinces Special Education Authority

4 (1) There is hereby established with perpetual succession a body corporate to be known as the Atlantic Provinces Special Education Authority.

(2) The persons who from time to time are appointed to be directors of the Authority shall be members of the corporation. R.S., c. 194, s. 4.

Board of Directors

5 (1) The administration, management, general direction and control of the affairs of the Authority shall be vested in a Board of Directors consisting of twelve members.

(2) The members of the Board shall be

(a) the Deputy Minister of Education for each of the Atlantic Provinces; and

(b) two persons appointed by each of the governors in council of the Atlantic Provinces.

(3) The term of office of each member appointed by a governor in council shall be set out in the appointment of the member and shall be for a period not in excess of two years and no member may be appointed for more than two consecutive terms.

(4) The Deputy Ministers of Education for the four Atlantic Provinces are constituted the Executive Committee of the Board.

(5) The terms of reference for the Executive Committee are to consider and present recommendations to the Board on major matters having an overall impact on the management and operation of the Authority.

(6) The Board shall, from time to time, appoint advisory committees as may be required to carry out the work of the Authority. R.S., c. 194, s. 5; 1990, c. 29, s. 2.

BUILDINGS AND EQUIPMENT

Powers of Governor in Council and Authority

6 (1) The Governor in Council may purchase, lease or otherwise acquire, hold and improve land and buildings, and may construct, alter, improve and equip buildings for the purposes of the Authority.

(2) With the approval of the governors in council of the Atlantic Provinces, the Authority may purchase, lease or otherwise acquire real and personal property and enter into contracts for the establishment, maintenance or operation of centres.

(3) All sums required for the acquisition and improvement of land and buildings for the Authority and for the establishment, maintenance and operation of centres shall be paid out of such sums as are from time to time appropriated by the Legislature for these purposes. R.S., c. 194, s. 6; 2011, c. 51, s. 2.

CENTRES

Establishment of centres

7 (1) The facility for persons with low incidence sensory impairments located at 5940 South Street in Halifax in the Halifax Regional Municipality is a centre under this Act.

(2) *repealed 2011, c. 51, s. 4.*

(3) The Authority may establish in the Atlantic Provinces such further centres as are deemed necessary by the Authority and approved by the governors in council of the Atlantic Provinces.

(4) All plans and specifications for each centre shall be submitted by the province establishing the same to each of the other Atlantic Provinces for approval before entering into any construction agreement or undertaking. R.S., c. 194, s. 7; 2011, c. 51, s. 4.

OPERATION OF CENTRES

8 *repealed 1990, c. 29, s. 3.*

Personnel and their remuneration

9 (1) The Board shall

(a) appoint a person with the title of Superintendent who shall be responsible to the Board for the operation of all centres;

(b) appoint for each centre a director and such other officers, teachers, employees and specialists as, in the opinion of the Board, are necessary for the efficient conduct and operation of the centre; and

(c) appoint such other officers, teachers, employees and specialists as, in the opinion of the Board, are necessary to carry out the intent and purpose of this Act.

(2) The Superintendent, directors, officers, employees and specialists shall have such qualifications and receive such remuneration as may be provided by regulation.

(3) For all purposes of the *Public Service Superannuation Act* every person employed in the Province by the Board, except a person who is eligible to make a contribution to the Nova Scotia Teachers' Pension Fund, shall be deemed to be a person employed in the public service of the Province and service by such a person in the employment of the Board shall be deemed to be public service.

(4) The Board shall deduct from the salary of every person employed by the Board to whom the *Public Service Superannuation Act* applies, other than a person who is eligible to make contribution to the Nova Scotia Teachers' Pension Fund, for each pay period such amount as is required by or under that Act to be deducted from the salary of an employee in the public service of the Province and shall pay over the sums so deducted to the Minister of Finance, which sums when so received shall be paid into and form part of the Superannuation Fund under the *Public Service Superannuation Act*.

(5) Where, by the *Public Service Superannuation Act* or the *Teachers' Pension Act*, any payment is directed to be made into the Public Service Superannuation Fund or the Nova Scotia Teachers' Pension Fund by the Government or by the Minister of Finance or by a board under the *Teachers' Pension Act* in respect of any person employed by the Board, such payment shall be made by the Board.

(6) The Authority shall be a "board" as defined in the *Teachers' Pension Act* and the provisions of that Act shall apply to the Authority in respect of all its personnel who are teachers within the meaning of the *Teachers' Pension Act*. R.S., c. 194, s. 9; 2011, c. 51, s. 6.

10 *repealed 1990, c. 29, s. 4.*

Education of persons with a low-incidence sensory impairment

11 (1) The Board shall admit to its centres or enroll in its programs or make other suitable educational provision for any person with a low-incidence sensory impairment and resident in the Atlantic Provinces who has been recommended by the school board responsible for providing educational services for that person if a request for admission or enrolment has been made by the chairman of the school board of the municipal unit in which the person resides.

(2) The Board may admit to its centres or enroll in its programs or make other suitable educational provision for any person with a low-incidence sensory impairment from other provinces or territories of Canada, provided that the Authority receives annually in advance the full cost of such admission, enrolment or educational provision and care of such person.

(3) The Board may admit to its centres or enroll in its programs or make other suitable educational provision for any person with a low-incidence sensory impairment who is over the age of twenty-one years provided that the Authority receives the full cost thereof and the cost of care for the person.

(4) The Board shall not be required to admit to a centre nor enroll in a program nor make other suitable educational provision for a person with a low-incidence sensory impairment where suitable educational provision is available to that person in the school district where he resides.

(5) Application for admission pursuant to subsections (2) and (3) may be made to the Board. R.S., c. 194, s. 11; 2010, c. 53, s. 6; 2011, c. 51, s. 7.

PARENTS, GUARDIANS AND SUPERINTENDENT OF SCHOOLS

Duties

12 (1) The parent or guardian of every person considered to be a person with a low-incidence sensory impairment shall notify the superintendent of schools serving the area in which the person resides of the name, address and age of such person.

(2) The superintendent of schools upon receipt of a notice under subsection (1) shall

(a) immediately arrange for an educational assessment of the person with a low-incidence sensory impairment;

(b) notify the Authority of the name, address and age of such person;

(c) recommend placement of such person in a suitable educational program in the school district in which he resides if it is available and notify the parent or guardian of the person of such placement; and

(d) if no suitable educational program is available in the school district in which the person with a low-incidence sensory impairment resides, have the circumstances of the person brought to the attention of the chairman of the school board for the municipal unit in which the person resides so that a request may be made to the Board for admission to a centre or enrolment in a program of the Board or some other suitable educational provision can be made by the Board.

(3) The Board shall notify the parent or guardian of a person with a low-incidence sensory impairment ~~and~~ and the superintendent of schools in which he resides of the admission of such person to its centre or the enrolment in its program or the educational provision made and, if transportation is required to effect the same, the school board for the municipal unit in which the person resides shall make such arrangements as are necessary to provide for such transportation and pay the cost thereof. R.S., c. 194, s. 12; 2010, c. 53, s. 7; 2011, c. 51, s. 8.

INTERPROVINCIAL SCHOOL FOR
THE EDUCATION OF THE DEAF AND
THE HALIFAX SCHOOL FOR THE BLIND

Vesting of property

13 (1) Notwithstanding Part VII of the *Corporations Miscellaneous Provisions Act* or any other enactment, all property, real and personal, within the Province belonging to or held by the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, or belonging to or held by any corporation, board, committee or other body, whether incorporated or unincorporated, created in connection with the Interprovincial school for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, shall, on the twenty-first day of January, 1975, be vested in Her Majesty in right of the Province, to be used, held and administered subject to the provisions of this Act for the purposes of the Authority.

(2) Any property, real or personal, held on the twenty-first day of January, 1975, or thereafter acquired by any person in trust for or to the use of the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, or any corporation, board, committee or other body created in connection with the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, shall be held in trust for or to the use of the Governor in Council.

(3) No action will lie against any person by reason of anything done by such person with respect to the delivery or transfer of any property, real or personal, under the provisions of subsection (2). R.S., c. 194, s. 13.

Powers of Governor in Council

14 (1) Subject to subsection (3), the Governor in Council may, for the purposes of the Authority, hold, deal with, use, sell or dispose of in such manner as he may deem advisable all or any of the property vested in Her Majesty in accordance with the provisions of subsection (1) of Section 13, and may invest, re-invest or otherwise administer all or any of the property or proceeds from any sale.

(2) The Governor in Council shall, for the purposes of the Authority, hold, use, administer and apply any income or benefit accruing by virtue of any trust received pursuant to subsection (2) of Section 13 in accordance with the provisions of the instrument creating the trust.

(3) Notwithstanding subsection (2), the Attorney General may make application to the Trial Division of the Supreme Court under the *Variation of Trusts Act* in respect of any trusts received pursuant to subsection (2) of Section 13 and the Supreme Court, upon hearing such application and such evidence as it deems fit, may vary or revoke all or any of the said trusts or enlarge the powers of the Governor in Council as trustee in the management or administration of any of the property of the said trusts so long as the proceeds thereof are used or applied for the benefit of the Authority. R.S., c. 194, s. 14.

Administration of sum

15 (1) The sum not exceeding fifty thousand dollars authorized by subsection (3) of Section 16 of the former *Interprovincial School for the Deaf Act* to be reserved and held out of the property so vested pursuant to subsection (1) of Section 15 of that Act to be used for the purpose of providing for retired teachers of the Interprovincial School for the Education of the Deaf, at Amherst, and The School for the Deaf, formerly at Halifax, children and other persons attending the Interprovincial School for the Education of the Deaf who are both blind and deaf or blind and deaf mute and such other purposes as the Board of Directors of the Interprovincial School for the Education of the Deaf had deemed advisable immediately before the twenty-first day of January, 1975, is hereby preserved.

(2) The Governor in Council may by order reserve and hold out of the property of The Halifax School for the Blind so vested pursuant to subsection (1) of Section 13 such sum as he deems fit for the purpose of providing for retired teachers of the Authority and The Halifax School for the Blind, at Halifax, children and other persons attending centres of the Authority and such other purposes as he may deem advisable.

(3) Any sum reserved and held pursuant to subsection (2) shall be administered by the Minister of Finance in accordance with the directions of the Governor in Council.

(4) Notwithstanding subsections (1), (2) and (3), the Governor in Council may by order consolidate any sum preserved by subsection (1) or reserved and held out pursuant to subsection (2) into one fund or pay over to any other fund the sums so preserved or reserved and held out so long as the purpose for which the said sums are preserved or reserved and held out is effected. R.S., c. 194, s. 15; 2011, c. 51, s. 9.

Transfer of liabilities

16 On the twenty-first day of January, 1975, Her Majesty in right of the Province shall assume and become liable for all debts, obligations and liabilities of the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, and any board, corporation, committee or other body, whether incorporated or unincorporated, created in connection with the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax. R.S., c. 194, s. 16.

FINANCES

Capital financing

17 (1) The capital cost of the land, buildings and equipment, and without restricting the ordinary meaning of such words, including all expenses of whatever nature incurred by the Province in connection with or for land, buildings and equipment acquired for the purposes of the Authority shall be paid by the Atlantic Provinces to the Province in the following proportions:

- (a) by the Province of Nova Scotia, thirty-seven per cent;
- (b) by the Province of New Brunswick, thirty per cent;
- (c) by the Province of Newfoundland and Labrador, twenty-eight per cent; and
- (d) by the Province of Prince Edward Island, five per cent.

(2) In calculating the amount payable by the Atlantic Provinces pursuant to subsection (1), there shall first be deducted from the total capital cost of the land, buildings and equipment, the market value of any assets received by the Province from the Interprovincial School for the Education of the Deaf, at Amherst, and The Halifax School for the Blind, at Halifax, provided that the value of any real property included among the assets shall be determined by the Minister for all purposes of this Act and such determination shall be final and binding on the Atlantic Provinces, except that the sums referred to in subsections (1) and (2) of Section 15 shall be reserved out of the assets in accordance with and for the purposes set forth in the said Section 15.

(3) Payments in respect of the capital cost referred to in subsection (1) shall be made by way of the Provinces of New Brunswick, Newfoundland and Labrador and Prince Edward Island paying to the Minister of Government Services for the Province of Nova Scotia, their respective share of such capital cost from month to month as the Province of Nova Scotia makes such capital expenditures. R.S., c. 194, s. 17; 2010, c. 53, s. 8.

Operating and maintenance costs

18 (1) The annual cost incurred by the Authority for its operation and maintenance, after deducting from such cost any revenue received by the Authority on account of operating expenses from any source other than the Atlantic Provinces, shall be paid by the Atlantic Provinces.

(2) The share of each of the Atlantic Provinces payable pursuant to subsection (1) shall be in accordance with the formula agreed to from time to time by the Atlantic Provinces on the recommendation of the Authority and contained in an agreement entered into pursuant to Section 22.

(3) For the purposes of this Act, operating and maintenance costs shall extend to all expenses of whatever nature which the Authority incurs for or in connection with its centres, its programs and educational provisions and equipment subsequent to the outlay of capital cost referred to in subsection (1) of Section 17.

(4) A payment made to the Authority by a municipality in the Atlantic Provinces pursuant to the laws of the province of which the municipality is a part shall be treated as a payment from the province of which the municipality is a part for the purposes of this Section.

(5) Payments in respect of annual operating and maintenance costs pursuant to this Section shall be made monthly by each of the Atlantic Provinces on presentation to each of the Atlantic Provinces by the Authority of accounts showing such operating and maintenance costs and expenditures and the share of each of the Atlantic Provinces in respect thereof. R.S., c. 194, s. 18; 2011, c. 51, s. 10.

Title to property

19 The title to the land, buildings and equipment acquired for the purposes of the Authority shall be vested and remain in Her Majesty in right of the Province of Nova Scotia, provided that when the Provinces of New Brunswick, Newfoundland and Labrador and Prince Edward Island have paid to the Province of Nova Scotia their share of capital expenditures for the land, buildings and equipment, the title to the land, buildings and equipment shall thereafter be held by Her Majesty in right aforesaid in trust for the Atlantic Provinces, the interest of the respective provinces being in proportion to their contributions to the capital cost for the land, buildings and equipment. R.S., c. 194, s. 19; 2010, c. 53, s. 9.

REGULATIONS

Regulations

20 Subject to the approval of the Governor in Council, the Board may make regulations

- (a) for the management, administration and conduct of the Authority;
- (b) prescribing the duties of the Superintendent, the directors, the officers, teachers, employees and specialists of the Authority;
- (c) generally respecting the conduct and management of the Authority and the care and custody of the person with a low-incidence sensory impairment admitted to its centres or enrolled in its programs or for whom other suitable educational provision is made;
- (d) defining any expression used in this Act and not herein defined;
- (e) respecting any other matter or thing that is necessary to effectively carry out the intent and purpose of this Act. R.S., c. 194, s. 20; 2010, c. 53, s. 10; 2011, c. 51, s. 11.

Regulations Act

21 Regulations made pursuant to Section 20 shall be regulations within the meaning of the *Regulations Act*. R.S., c. 194, s. 21.

AGREEMENTS

Agreements

22 (1) The Minister, with the approval of the Governor in Council, may enter into and amend from time to time agreements with the ministers of education of the Provinces of New Brunswick, Newfoundland and Labrador and Prince Edward Island to carry out the intent and purpose of this Act.

(2) In addition to the authority contained in subsection (1), the Minister, with the approval of the Governor in Council, may enter into and amend from time to time agreements with

- (a) the Government of Canada;
- (b) the government or governments of any other province;
- (c) any municipality or municipalities;
- (d) any person or persons,

to carry out the intent and purpose of this Act and may by such an arrangement establish intergovernmental or other committees to co-ordinate or implement programs relating to the objectives of this Act and to maintain continuing consultation and advice on policies and programs relating to the objectives of this Act. R.S., c. 194, s. 22; 2010, c. 53, s. 11.

GOVERNOR IN COUNCIL

Powers of Governor in Council

23 The Governor in Council is empowered to

(a) do every act and exercise every power and expend every sum of money necessary or proper for the purposes of implementing in every respect every obligation assumed by the Province under this Act;

(b) do and perform the acts, matters or things in this Act provided to be done or performed by the Province in the manner and with the effect and under the conditions stipulated and provided in this Act; and

(c) authorize the Minister to make any request, to give any notice or direction, to grant or withhold any approval or consent or to do any other act or thing required or permitted to be done by the Province under this Act. R.S., c. 194, s. 23.