

Government Records Act

CHAPTER 7 OF THE ACTS OF 1995-96

as amended by

2010, c. 5, s. 29; 2011, c. 5, s. 365; 2016, c. 8



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CHAPTER 7 OF THE ACTS OF 1995-96
amended 2010, c. 5, s. 29; 2011, c. 5, s. 365; 2016, c. 8

**An Act Respecting
Government Records in Nova Scotia**

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Short title

1 This Act may be cited as the *Government Records Act*. 1995-96, c. 7, s. 1.

Purpose of Act

2 The purpose of this Act is to

- (a) vest the records of public bodies in Her Majesty in right of the Province;
- (b) ensure comprehensive and accurate description and classification of records in the custody or under the control of a public body; and
- (c) authorize the retention and disposition of the records of public bodies. 1995-96, c. 7, s. 2.

Interpretation

3 In this Act,

- (a) “Committee” means the Government Records Committee;
- (aa) “common records schedule” means a records schedule that is applicable to records common to more than one public body;

(b) “head”, in relation to a public body, means

(i) where the public body is a department, branch or office of the Government of Nova Scotia, the member of the Executive Council who presides over it,

(ii) where the public body is a board, commission, committee, office, foundation, agency, tribunal, task force, council, association or other body of persons reporting directly to a member of the Executive Council in respect of its day-to-day operations, that member,

(iii) where the public body is a board, commission, foundation, agency, tribunal, task force, council, association or other body of persons not reporting directly to a member of the Executive Council in respect of its day-to-day operations, the chair or presiding officer of the board, commission, committee, office, foundation, agency, tribunal, association or other body of persons, or

(iv) in any other case, the person designated by the regulations as the head of the public body.

(c) “Minister” means the member of the Executive Council assigned responsibility for this Act;

(d) “municipal unit” means a city, an incorporated town, a municipality of a county or district, a regional municipality or village commissioners incorporated pursuant to the *Village Service Act* or to whom that Act applies and includes any agency, board or commission thereof;

(e) “Public Archives” means the Public Archives of Nova Scotia;

(f) “public body” means a Government department or a board, commission, committee, office, foundation, agency, tribunal, task force, council, association or other body of persons, whether incorporated or unincorporated, all the members of which or all the members of the board of management or board of directors of which

(i) are appointed by order of the Governor in Council, or

(ii) if not so appointed or specified, in the discharge of their duties are public officers or servants of Her Majesty in right of the Province,

but does not include the House of Assembly, its committees, the House of Assembly Management Commission the Office of the Speaker, the Office of the Clerk of the House, the Office of the Legislative Counsel, the Office of the Conflict of Interest Commissioner, the caucus offices, the offices of party leaders or any other offices within the jurisdiction of the House of Assembly or the Speaker and, for greater certainty, does include

(iii) the Office of the Auditor General,

(iv) Elections Nova Scotia, and

(v) the Office of the Ombudsman,

and includes a public body designated as a public body pursuant to clause 14(1)(c),

(g) “records” means information in any form, created, received and maintained as evidence by a public body for business purposes and legal obligations;

(h) “records management” means the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including processes for capturing and maintaining evidence of, and information about, business activities and transactions;

(i) “records schedule” means a comprehensive description and classification of the records of one or more public bodies, and includes a plan governing the life cycle of the records from creation or receipt to disposition. 1995-96, c. 7, s. 3; 2010, c. 5, s. 29; 2011, c. 5, s. 365; 2016, c. 8, s. 1.

Application of Act

4 (1) This Act applies to all records in the custody or under the control of a public body, including court administration records.

(2) This Act does not apply to

(a) a record in a court file, a record of a judge of the Nova Scotia Court of Appeal, Supreme Court of Nova Scotia, Family Court or Provincial Court, or judicial administration records;

(b) personal, political, party or constituency records of a member of the House of Assembly or the Executive Council; or

(c) material placed in the custody of the Public Archives by or for a person, agency or other organization other than a public body. 1995-96, c. 7, s. 4.

Responsibilities of Minister

5 (1) The Minister has the general supervision and management of this Act.

(2) The Minister is responsible for records management and related activities of public bodies, which may include

(a) developing and implementing a comprehensive records management program for public bodies;

(b) providing advice and assistance to public bodies

(i) for the development, implementation and maintenance of their records management systems, and

(ii) to ensure their compliance with this Act, the regulations and other legislation;

- (c) recommending policies regarding records management that apply to public bodies;
- (d) establishing records management standards, guidelines and best practices for public bodies;
- (e) preparing common records schedules for use by public bodies;
- (f) providing records storage and other records management services to public bodies, in accordance with the regulations, to ensure compliance with this Act, the regulations and other legislation; and
- (g) any matter assigned to the Minister pursuant to the regulations. 1995-96, c. 7, s. 5; 2016, c. 8, s. 2.

Government Records Committee

6 (1) There shall be a Government Records Committee consisting of

- (a) the Provincial Archivist;
- (b) the Deputy Minister of Finance and Treasury Board or such other officer of the Department of Finance and Treasury Board as the Deputy Minister may designate;
- (c) the Auditor General of Nova Scotia or such other officer as the Auditor General may designate;
- (d) the Deputy Attorney General or such other officer of the Department of Justice as the Deputy Attorney General may designate;
- (e) the Deputy Minister of Internal Services or such other officer of the Department of Internal Services as the Deputy Minister may designate; and
- (f) such other persons, not exceeding two, as the Minister may appoint.

(2) *repealed 2016, c. 8, s. 3.*

1995-96, c. 7, s. 6; 2016, c. 8, s. 3.

Duties and powers of Committee

- 7** (1) The Committee shall
- (a) review records schedules submitted to the Committee by a public body; and
 - (b) review common records schedules for use by public bodies.

- (2) The Committee may
- (a) recommend that the Minister approve records schedules, including common records schedules; and
 - (b) request that the head of a public body revise and resubmit a previously submitted records schedule. 2016, c. 8, s. 4.

Prohibition

8 No person shall destroy, alienate or transfer to the Public Archives the records of a public body except in accordance with a records schedule approved by the Minister pursuant to this Act for those records. 1995-96, c. 7, s. 8.

9 and 10 *repealed 2016, c. 8, s. 5.*

Approval by Minister and effect

11 (1) The Minister may approve records schedules recommended for approval pursuant to clause 7(2)(a).

(2) A records schedule has effect upon approval by the Minister. 1995-96, c. 7, s. 11; 2016, c. 8, s. 6.

Duties of public body

12 The head of a public body shall

(a) where responsible for records not included in a common records schedule, prepare and submit to the Committee for review one or more records schedules for those records;

(b) where requested by the Committee to do so, revise and resubmit to the Committee for review a previously submitted records schedule to the Committee;

(c) apply any records schedules or common records schedules approved by the Minister and applicable to the public body to the records for which the head is responsible;

(d) protect and maintain records in the custody or under the control of the public body to preserve the usefulness, accessibility, authenticity and reliability of the records; and

(e) manage records in accordance with a comprehensive records management program developed and implemented by the Minister. 2016, c. 8, s. 7.

Records vested in Her Majesty

13 The records kept by or in the custody of a public body or any Provincial or municipal officer in pursuance of the officer's duty as such officer are vested in Her Majesty in right of the Province. 1995-96, c. 7, s. 13.

Regulations

14 (1) The Minister may make regulations respecting any matter or thing that in the opinion of the Minister is necessary to carry out effectively the intent and purpose of this Act and, without limiting the generality of the foregoing,

(a) designating and establishing classes of records for the purposes of retention, destruction or permanent preservation of the records of a public body;

(aa) further defining “common records schedule” for the purpose of clause 3(aa);

(ab) prescribing the content of common records schedules and records schedules;

(ac) assigning matters to the Minister for the purpose of clause 5(2)(g);

(b) respecting the practices to be observed in dealing with records for the purposes of disposition and retention, and respecting the transfer of records to the Public Archives for permanent preservation;

(c) designating, as a public body for purpose of this Act,

(i) any municipal unit,

(ii) any school board as defined in the *Education Act*,

(iii) a university or college,

(iv) any agency, association, board, commission, corporation, office, society or other body

(A) any member of which is appointed by the Governor in Council or a member of the Executive Council,

(B) a controlling interest in the share capital of which is owned by Her Majesty in right of the Province or any of its agencies, or

(C) that performs functions pursuant to an enactment,

(v) any other entity the Minister considers appropriate;

(ca) respecting the procedures for submitting and reviewing records schedules;

(cb) respecting the procedures of the Committee;

(d) defining any word or expression used in this Act but not defined in this Act.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 1995-96, c. 7, s. 14; 2016, c. 8, s. 8.

Public Records Act repealed

15 Chapter 374 of the Revised Statutes, 1989, the *Public Records Act*, is repealed. 1995-96, c. 7, s. 15.

Public Records Disposal Act repealed

16 Chapter 375 of the Revised Statutes, 1989, the *Public Records Disposal Act*, is repealed. 1995-96, c. 7, s. 16.
