

Public Archives Act

CHAPTER 24 OF THE ACTS OF 1998

as amended by

2006, c. 15, s. 15; 2011, c. 26; 2016, c. 15; 2021, c. 35



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CHAPTER 24 OF THE ACTS OF 1998
amended 2006, c. 15, s. 15; 2011, c. 26; 2016, c. 15; 2021, c. 35

**An Act Respecting
the Public Archives of Nova Scotia**

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Short title

1 This Act may be cited as the *Public Archives Act*. 1998, c. 24, s. 1.

Interpretation

2 In this Act,

(a) “archival records” means materials, created or received by a person, family or organization, public or private, in the conduct of the person, family or organization’s affairs, that are preserved because of the enduring value of the information they contain or as evidence of the functions or responsibilities of their creator;

(aa) “Board” means the Advisory Board of the Public Archives;

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

(c) “Provincial Archivist” means the Provincial Archivist of Nova Scotia;

(d) “Minister” means the Minister of Communities, Culture, Tourism and Heritage;

(e) “public body” means a public body within the meaning of the *Government Records Act*;

(f) “records” means information in any form, created, received and maintained as evidence by a person or organization for business purposes or legal obligations. 1998, c. 24, s. 2; 2011, c. 26, s. 1; 2016, c. 15, s. 1; 2021, c. 35, s. 1.

Supervision and management of Act

3 The Minister has the general supervision and management of this Act. 1998, c. 24, s. 3.

Public Archives of Nova Scotia

4 The central agency of Government known as the Public Archives of Nova Scotia is hereby continued as a body corporate to be known as the Public Archives of Nova Scotia. 2021, c. 35, s. 2.

Mandate

5 The mandate of the Public Archives is to

(a) ensure that the archival records of the Province in the control and custody of the Public Archives are managed, kept and preserved so as to maintain their usefulness, accessibility, authenticity and reliability for the benefit of present and future generations;

(b) support the accountability and transparency of the Government of the Province by promoting good recordkeeping; and

(c) ensure enduring public access to the archival records of the Province and encourage their use as a vital resource for studying and interpreting the Province’s history, culture and development. 2016, c. 15, s. 2.

Objects and functions

5A The objects and functions of the Public Archives are to

(a) acquire, preserve and facilitate access to the archival records of public bodies and the courts of the Province, and to archival records from the private sector that are of provincial scope or significance;

(b) develop and implement policies, standards, procedures and services for the effective management of the archival records in the control and custody of the Public Archives;

(c) provide advice, direction and guidance on the care, handling and disposition of the archival records of public bodies and the courts of the Province throughout the life cycle of the archival records;

(d) be responsible for the permanent care of, and control of access to, the archival records in the control and custody of the Public Archives;

(e) support, encourage and assist archival activities and the archival community; and

(f) promote the usability, visibility and relevance of archives in the Province. 2016, c. 15, s. 2.

Provincial Archivist

6 (1) There shall be a Provincial Archivist of Nova Scotia appointed in accordance with, and subject to, the *Civil Service Act*.

(2) The Provincial Archivist is the chief executive and operating officer of the Public Archives. 1998, c. 24, s. 6; 2011, c. 26, s. 2; 2021, c. 35, s. 3.

Status of employees

7 All employees of the Public Archives shall be appointed in accordance with, and are subject to, the *Civil Service Act*. 1998, c. 24, s. 7.

Deemed employees

8 For the purpose of the *Public Service Superannuation Act*, every full-time employee of the Public Archives, whether appointed before or after the coming into force of this Act, is and is deemed to have been a person employed in the public service of the Province, and full-time employment, before or after the coming into force of this Act, in the service of the Public Archives is deemed to be and to have been employment in the public service of the Province. 1998, c. 24, s. 8.

Advisory Board

9 There shall be an Advisory Board of the Public Archives whose responsibilities are to

(a) provide advice to the Provincial Archivist respecting the Public Archives, its programs and services;

(b) in consultation with the Provincial Archivist, support and contribute to the development and improvement of the Public Archives, its programs and services;

(c) act as a conduit for the provision of information and assistance regarding archival matters from stakeholders and related communities of interest to the Provincial Archivist;

(d) make recommendations to the Minister and public bodies as appropriate regarding archival heritage; and

(e) co-operate with other bodies engaged in archival activities. 2016, c. 15, s. 3.

Composition of Board

10 (1) The composition of the Board and the term for which a member of the Board holds office are as prescribed by the regulations.

(2) The Minister shall appoint the members of the Board in accordance with the regulations.

(3) Subject to the regulations, a member of the Board may be re-appointed. 2016, c. 15, s. 3.

Patron

11 The Lieutenant Governor of the Province is the Patron of the Public Archives. 1998, c. 24, s. 11.

Chair and other officers of Board

12 (1) The Minister shall appoint one of the members of the Board as the Chair of the Board and determine the member's term of office as Chair.

(2) The Board shall appoint one of their members as the Vice-chair of the Board.

(3) The Provincial Archivist is the Secretary to the Board. 1998, c. 24, s. 12; 2011, c. 26, s. 4; 2016, c. 15, s. 4.

Remuneration and reimbursement for expenses

13 (1) No member of the Board shall receive any remuneration for service as a member, the Chair or the Vice-chair of the Board.

(2) The members of the Board shall be reimbursed for such reasonable expenses as are necessarily incurred by them in carrying out their duties. 1998, c. 24, s. 13.

Quorum

14 Five members of the Board constitute a quorum. 1998, c. 24, s. 14.

Powers of Provincial Archivist

15 (1) The Provincial Archivist may carry out such activities as are necessary to attain the mandate, objects and functions of the Public Archives and, without limiting the generality of the foregoing, may

(a) acquire records or obtain the care, custody or control of records in accordance with the mandate of the Public Archives;

(b) take such measures as are necessary to appraise, re-appraise, arrange, describe and preserve records;

(c) facilitate access to records, subject to any lawful restriction that applies;

(d) provide information, consultation, reference and other services related to archives;

(e) promote the usability, visibility and relevance of archives by means such as traditional and online exhibitions, electronic access to records and the copying of records;

(f) store archival records, reproduce records and provide other archival services to ensure the effective implementation of this Act and related legislation;

(g) collaborate and co-operate with other departments and agencies of the Government of the Province on processes for capturing, managing and accessing archival records in electronic form;

(h) provide training in archival practices to support program objectives;

(i) provide professional and technical support to the archival community;

(j) co-operate with and undertake activities in concert with organizations interested in archival matters by means such as exchanges and partnered projects;

(k) carry out such other activities as the Minister may specify.

(1A) The Provincial Archivist may enter into an agreement with any person to facilitate the carrying out of any activity authorized by subsection (1).

(2) Subject to the terms and conditions under which records have been acquired or obtained, the Provincial Archivist may destroy or dispose of any record under the control of the Provincial Archivist where the retention of the record is no longer deemed necessary. 1998, c. 24, s. 15; 2016, c. 15, s. 5.

Manner of destruction or disposal of document

16 Subject to subsection 15(2), no record under the control of a public body, whether or not it is surplus property of a public body, shall be destroyed or disposed of except in accordance with the *Government Records Act*. 1998, c. 24, s. 16; 2016, c. 15, s. 6.

Access to records

17 (1) Subject to subsection (4) but notwithstanding anything in any other Act of the Legislature, the Provincial Archivist or designate shall have access to any record in respect of which a proposed or approved records schedule under the *Government Records Act* applies.

(2) Notwithstanding anything in any other Act of the Legislature, any officer or employee of a public body may grant to the Provincial Archivist or designate access to any record in respect of which a proposed or approved records schedule under the *Government Records Act* applies.

(3) The Provincial Archivist and every designated person acting on behalf or under the direction of the Provincial Archivist shall, with respect to access to the records referred to in subsection (1), satisfy any confidentiality requirements applicable to, and take any oath of confidentiality required to be taken by, persons who normally have access to those records.

(4) For the purpose of this Section, the Provincial Archivist or a person designated by the Provincial Archivist shall have access to a record restricted by an Act of the Legislature, including the *Freedom of Information and Protection of Privacy Act*, only with the consent of the head of that public body. 1998, c. 24, s. 17.

Transfer of records of public bodies

18 Control and custody of the archival records of public bodies and the courts of the Province that, in the opinion of the Provincial Archivist, are of archival importance must be transferred to the Public Archives in accordance with records schedules and other means authorized by or under any enactment of the Province. 2016, c. 15, s. 7.

Care and control of records

19 Except as otherwise directed by the Governor in Council, the Provincial Archivist shall have the care and control of all records of any public body the functions of which have ceased. 1998, c. 24, s. 19.

Limitation of application of certain Sections

20 Sections 17 to 19 do not apply to records that are library or museum materials kept by a public body for reference or exhibition purposes. 1998, c. 24, s. 20.

Admissibility of record as evidence

21 A copy of a record in the custody of the Public Archives, purporting to be certified by the Provincial Archivist to be a true copy, is *prima facie* evidence of the document without proof of the signature or the appointment of the Provincial Archivist. 2016, c. 15, s. 8.

Public Archives Account

22 (1) There shall be an account in the accounts of the Province called the Public Archives Account to which shall be credited all amounts received for the Public Archives by way of gift, devise, bequest, trust, revenue generation, external funding source or otherwise, but excluding money that is part of the annual budget approved by the Legislature for the Department of Communities, Culture, Tourism and Heritage.

(2) Any gift, devise, bequest or trust to or for the benefit of the Public Archives is deemed to be a gift to Her Majesty in right of the Province and, subject to its provisions, enures to the benefit of the Public Archives and must be held and applied for the purpose of this Act.

(3) The Provincial Archivist may establish policies and procedures for overseeing the financial management and use of all amounts received by Her Majesty in right of the Province for the Public Archives by way of gift, devise, bequest, trust, revenue generation, external funding source or otherwise. 1998, c. 24, s. 22; 2016, c. 15, s. 9; O.I.C. 2021-215.

Regulations

- 23 (1)** The Governor in Council may make regulations
- (a) respecting the composition of the Board and the process of appointment;
 - (aa) respecting the term for which a member of the Board holds office;
 - (ab) respecting circumstances under which a member of the Board is or is not eligible to be re-appointed;

- (ac) respecting fees;
- (b) defining any word or expression used but not defined in this Act; and
- (c) respecting any matter 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 regulations within the meaning of the *Regulations Act*. 1998, c. 24, s. 23; 2006, c. 15, s. 15; 2016, c. 15, s. 10.

Continuation of persons in positions

24 (1) The person who was the Provincial Archivist immediately before the coming into force of this Act continues in office until ceasing to hold that office.

(2) Every person who was, immediately prior the coming into force of this Act, an employee of the Board of Trustees of the Public Archives of Nova Scotia, becomes, as such, a staff member of the Public Archives as established by this Act. 1998, c. 24, s. 24.

Repeal

25 Chapter 370 of the Revised Statutes, 1989, the *Public Archives Act*, is repealed. 1998, c. 24, s. 25.

Proclamation

26 This Act comes into force on such day as the Governor in Council orders and declares by proclamation. 1998, c. 24, s. 26; 2016, c. 15, s. 11.

Proclaimed - February 24, 1999
In force - January 1, 1999
