

Public School Administrators Employment Relations Act

SCHEDULE B OF CHAPTER 1 OF THE ACTS OF 2018



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**An Act Respecting the Employment Relations
of Public School Administrators**

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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 *Public School Administrators Employment Relations Act*. 2018, c. 1, Sch. B, s. 1.

Interpretation

2 (1) In this Act,

(a) “administrator” means a teacher who

(i) is employed by an education entity or the Minister of Education and Early Childhood Development, and

(ii) holds, including in an acting capacity, a position with greater supervisory responsibility than a department head, including a position as regional executive director of education, superintendent of schools, director, subsystem supervisor, co-ordinator, principal or vice-principal,

but does not include a teacher acting as a teacher-in-charge in accordance with a professional agreement or the holder of a teaching permit issued by the Minister;

(b) “Association” means the Public School Administrators Association of Nova Scotia incorporated by this Act;

(c) “benefit plan or service” means a benefit plan or service as defined in Section 15 of the *Teaching Profession Act*;

(d) “by-laws” means the by-laws of the Association;

(e) “memorandum of understanding” means a memorandum of understanding entered into by the parties in accordance with this Act;

(f) “Minister” means the Minister of Education and Early Childhood Development;

(g) “parties” means the Minister and the Association, whether acting on its own behalf or being represented by the Union;

(h) “professional agreement” means a professional agreement as defined in the *Teachers’ Collective Bargaining Act*;

(i) “Union” means the Nova Scotia Teachers’ Union;

(j) “unionized teacher” means a teacher as defined in the *Teachers’ Collective Bargaining Act*.

(2) Except as otherwise provided in this Act, words and expressions used in this Act have the same meaning as in the *Education Act*. 2018, c. 1, Sch. B, s. 2.

Supervision of Act

3 The Minister of Labour Relations has the general supervision and administration of this Act. 2018, c. 1, Sch. B, s. 3.

PUBLIC SCHOOL ADMINISTRATORS
ASSOCIATION OF NOVA SCOTIA

Incorporation

4 (1) The Public School Administrators Association of Nova Scotia is incorporated as a body corporate.

(2) The membership of the Association consists of every administrator.

(3) No person other than an administrator may be a member of the Association.

(4) The Association is deemed to be a society registered under the *Societies Act* and, subject to subsection (5), that Act applies to the Association *mutatis mutandis*.

(5) Where there is a conflict between this Act and the *Societies Act*, this Act prevails. 2018, c. 1, Sch. B, s. 4.

Objects

- 5 (1) The objects of the Association are to
- (a) promote the common interests of administrators;
 - (b) promote and encourage student and teaching excellence within the public school system of the Province; and
 - (c) make representations to and negotiate and enter into a memorandum of understanding with the Minister respecting the terms and conditions of employment for administrators and any other matters of concern to administrators.

(2) The Association may adopt additional objects compatible with the objects prescribed by subsection (1). 2018, c. 1, Sch. B, s. 5.

Initial meeting

6 (1) The Association shall hold an initial meeting of its membership no later than August 31, 2018.

(2) Before the initial meeting, the Minister of Labour Relations may appoint an interim board of directors and make by-laws for the Association to facilitate the conduct of business at the initial meeting.

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(3) The exercise by the Minister of Labour Relations of the authority contained in subsection (2) is not a regulation within the meaning of the *Regulations Act*. 2018, c. 1, Sch. B, s. 6.

Membership fee

7 (1) An administrator shall pay annually to the Association such fee as may be prescribed by the by-laws.

(2) The employer of an administrator shall deduct from the salary of the administrator the fee payable to the Association in twelve equal monthly instalments or in such other number of equal instalments as may be agreed upon by the employer and the Association and remit the fee to the Association. 2018, c. 1, Sch. B, s. 7.

Role

8 (1) The Association may, either directly or through the Union, make representations to and negotiate and enter into a memorandum of understanding with the Minister respecting the terms and conditions of employment for administrators and any other matters of concern to administrators.

(2) The Association is not a bargaining agent for administrators. 2018, c. 1, Sch. B, s. 8.

MEMORANDUM OF UNDERSTANDING

Commencement of negotiations

9 Either party may, by notice in writing, require the other party to commence negotiations for a memorandum of understanding if

- (a) no memorandum is in effect; or
 - (b) a memorandum is in effect and
 - (i) fewer than two months remain before the expiry or termination of the memorandum, or
 - (ii) the memorandum authorizes the notice to be given.
- 2018, c. 1, Sch. B, s. 9.

Consultation by Minister

10 When negotiating a memorandum of understanding, the Minister may be advised by and shall consult with the education entities. 2018, c. 1, Sch. B, s. 10.

Conclusion and effect

11 (1) The parties may enter into a memorandum of understanding respecting such matters upon which they may agree, including any matters respecting the terms and conditions of employment for administrators.

(2) The failure of the parties to comply with the memorandum of understanding does not affect the validity of any action taken by either of the parties or give rise in any person to any right or remedy. 2018, c. 1, Sch. B, s. 11.

Dispute re interpretation

12 (1) Where a dispute arises between the parties in respect of the interpretation of a memorandum of understanding, the parties may jointly refer the dispute to a mediator to attempt to settle the dispute.

(2) The parties shall each pay one half of the fees and expenses of the mediator to whom a dispute is referred. 2018, c. 1, Sch. B, s. 12.

EMPLOYMENT ENTITLEMENTS

Application of Trade Union Act

13 An administrator is not an employee as defined in the *Trade Union Act* and, for greater certainty, that Act does not apply to an administrator. 2018, c. 1, Sch. B, s. 13.

Entitlements

14 An administrator is entitled to

(a) receive such salary and benefits as may be prescribed by the regulations; and

(b) participate in the Pension Plan as defined in the *Teachers' Pension Act*. 2018, c. 1, Sch. B, s. 14.

Salary increases proportionate to teachers

15 (1) The salary applicable to a position as an administrator must be increased by an amount proportionate to the amount by which the salary of unionized teachers is increased as a result of any increase in salary negotiated by the Union for unionized teachers.

(2) Where the salary prescribed by the regulations as being applicable to a position as an administrator is not increased in accordance with subsection (1), the employer of an individual employed in such a position shall pay to the individual the salary prescribed by the regulations and such additional amount as is necessary to comply with subsection (1).

(3) For greater certainty, nothing in this Act prevents a memorandum of understanding from specifying or the Governor in Council from prescribing

(a) a salary applicable to a position as an administrator greater than what is required under subsection (1); or

(b) any benefit in excess of what is negotiated by the Union for unionized teachers. 2018, c. 1, Sch. B, s. 15.

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Reassignment to classroom

16 (1) The employer of any individual employed as an administrator may, at any time, reassign the individual to a classroom teaching position.

(2) Upon being reassigned to a classroom teaching position, the individual referred to in subsection (1) becomes a unionized teacher. 2018, c. 1, Sch. B, s. 16.

Participation in Union benefit plans and services

17 An administrator is entitled to participate, on the same terms as a unionized teacher, in any benefit plan or service established, sponsored or administered or otherwise provided by the Union for the benefit of unionized teachers. 2018, c. 1, Sch. B, s. 17.

Application of Sections 13 to 17

18 For greater certainty, Sections 13 to 17 apply irrespective of whether the Association continues to be affiliated with the Union. 2018, c. 1, Sch. B, s. 18.

AFFILIATION WITH THE
NOVA SCOTIA TEACHERS' UNION

Affiliation

19 Except where the Association has terminated its affiliation under Section 24, the Association is affiliated with the Union. 2018, c. 1, Sch. B, s. 19.

Nature of affiliation

20 While the Association is affiliated with the Union,

(a) the Association and the Union may, subject to this Act, determine the terms of their affiliation by agreement;

(b) the Union shall provide representational services to the Association to make representations on behalf of the Association and its members on the terms and conditions of employment for administrators and any other matters of concern to administrators;

(c) the Union is not a bargaining agent for administrators;

(d) in the event of a conflict between an administrator and a unionized teacher, the Union shall, subject to any safeguards required under the agreement referred to in clause (a), represent the interests of the unionized teacher and not the administrator;

(e) an administrator may continue to access any professional development fund or professional development opportunity available to a unionized teacher; and

(f) the Association shall remit to the Union, for every member of the Association, such annual amount upon which the Association and the

Union may agree, which may not exceed the annual fee prescribed by the Union as being payable by a unionized teacher. 2018, c. 1, Sch. B, s. 20.

Administrator not Union member

21 (1) An administrator is not a member of the Union and, subject to subsection (2), may not engage in an activity of the Union, serve on a committee of the Union or hold an office of the Union.

(2) Nothing in this Act prevents an administrator from acting as a trustee, or as a director of a corporation that is a trustee, of the pension plan as defined in the *Teachers' Pension Act* or any insurance plan established, sponsored, administered or otherwise provided by the Union. 2018, c. 1, Sch. B, s. 21.

Election to return to classroom

22 (1) While the Association is affiliated with the Union, an individual employed as an administrator may return to a teaching position in the classroom in accordance with this Section.

(2) An individual employed as an administrator may return to a classroom teaching position on a temporary basis in accordance with the regulations.

(3) Subject to subsection (4), an individual employed by an education entity as an administrator may at any time, including while the individual has temporarily returned to a classroom teaching position, elect to return to a classroom teaching position at a school under the jurisdiction of the education entity on a permanent basis by notice in writing to the education entity.

(4) An election under subsection (3) may not be made after March 31st in any year if the affiliation between the Association and the Union is to terminate on August 1st of that year.

(5) An election under subsection (3) has effect on August 1st next after it is made, unless the individual and the individual's employer agree upon an earlier effective date.

(6) Upon an election under subsection (3) taking effect, the individual who made the election

(a) ceases to be an administrator and may not elect to return to a position as an administrator; and

(b) becomes a unionized teacher. 2018, c. 1, Sch. B, s. 22.

Seniority credit upon return to classroom

23 While the Association is affiliated with the Union, an individual who, having been employed by an education entity as an administrator, becomes a unionized teacher at a school under the jurisdiction of the education entity by virtue of being reassigned to a classroom teaching position or making an election under sub-

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section 22(3) is, for the purpose of any professional agreement to which the individual becomes subject upon becoming a unionized teacher, deemed to be credited with seniority for the entire period during which the individual was employed as an administrator. 2018, c. 1, Sch. B, s. 23.

Termination of affiliation

24 (1) The Association may terminate its affiliation with the Union in accordance with this Section.

(2) The directors of the Association may, at their discretion, appoint a person independent of the Association to conduct a vote of the membership to determine whether the Association is to remain affiliated with the Union.

(3) Notwithstanding subsection (2), the directors of the Association shall appoint a person under subsection (2) to conduct a vote during the month of February, 2019.

(4) A vote may only be conducted during the period, in 2019 and in every second year thereafter, commencing on February 1st and ending immediately before March 1st.

(5) Where a vote is conducted, the following must occur before the end of the period prescribed by subsection (4):

(a) the person conducting the vote must certify the result and provide notice of the result to the directors of the Association; and

(b) the directors of the Association must notify its members of the result in such manner as the directors consider appropriate.

(6) Where the person conducting the vote certifies to the Association that a majority of its members voted in favour of terminating the affiliation of the Association with the Union, the affiliation terminates immediately before August 1st of the year during which the vote takes place. 2018, c. 1, Sch. B, s. 24.

Agreement re termination

25 Where the Association terminates its affiliation with the Union, the Association, the Union and the Minister shall, before the termination takes effect, endeavour to conclude an agreement respecting any issues arising as a result of the termination. 2018, c. 1, Sch. B, s. 25.

GENERAL

Regulations

26 (1) The Governor in Council may make regulations

(a) subject to subsection (2), prescribing the salary and benefits applicable to any position as administrator;

(b) respecting the return by an administrator to a classroom teaching position on a temporary basis;

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

(d) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) A salary prescribed under clause (a) as being applicable to a position as an administrator must not be less than the salary applicable to the position immediately before August 1, 2018, or less than what is required to comply with subsection 15(1).

(3) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*. 2018, c. 1, Sch. B, s. 26.

Salary and benefits continued

27 On August 1, 2018, every individual employed as an administrator is employed on the same terms and conditions as to salary and benefits as those under which the individual was employed as a administrator immediately before that date, unless and until lawfully changed. 2018, c. 1, Sch. B, s. 27.

Effective date

28 This Act has effect on and after August 1, 2018. 2018, c. 1, Sch. B, s. 28.
