

University Foundations Act

CHAPTER 8 OF THE ACTS OF 1991

as amended by

2020, c. 19



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amended 2020, c. 19

**An Act to Establish
University Foundations**

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Short title

1 This Act may be cited as the *University Foundations Act*. 1991, c. 8, s. 1.

Interpretation

2 In this Act,

(a) “designated university” means an institution that is designated by the regulations as a university for the purposes of this Act;

(b) “foundation” means a foundation established by this Act. 1991, c. 8, s. 2.

Foundation

3 (1) A foundation is hereby established for each designated university.

(2) A foundation is a body corporate and an agent of Her Majesty in right of the Province.

(3) The name of a foundation consists of the word “Foundation” immediately preceded by the name of the designated university for which the foundation is established.

(4) The capital of a foundation is one share with a par value of one hundred dollars.

(5) The share in each foundation shall be issued to and registered in the name of the Minister of Finance and Treasury Board and held by the Minister on behalf of Her Majesty in right of the Province. 1991, c. 8, s. 3; O.I.C. 2013-348.

Objects

4 The objects of a foundation are to

(a) provide financial support for the designated university for which the foundation is established;

(b) develop, foster and encourage public knowledge and awareness of the designated university for which the foundation is established and the benefits to the people of the Province in connection with the designated university;

(c) encourage, facilitate and carry out programs and activities that will, directly or indirectly, increase the financial support of, or confer a benefit on, the foundation for support of the designated university for which the foundation was established and programs in which the designated university is involved; and

(d) receive, manage and invest funds and property of every nature and kind from any source for the establishment, operation and maintenance of the foundation and to further the purposes of the foundation. 1991, c. 8, s. 4.

Membership

5 (1) A foundation consists of

(a) three members appointed by the Governor in Council; and

(b) two members appointed by the Governor in Council from a list of five persons who are members of, and are nominated by, that body of persons who have the management and control of the affairs of the designated university for which the foundation is established or who constitute the designated university.

(2) A person who is appointed a member of a foundation pursuant to clause (b) of subsection (1) ceases to be a member of the foundation when the person ceases to be a member of the body referred to in clause (b) that nominated the person.

(3) Each member of a foundation is appointed for such term as the Governor in Council determines and, subject to subsection (4), may be re-appointed.

(4) No person may serve as a member of a foundation for more than six consecutive years.

(5) A vacancy in the membership of a foundation does not impair the power of the remaining members to act or the corporate capacity of the foundation.

(6) Each member of a foundation shall be reimbursed for reasonable expenses necessarily incurred by the member in connection with the work of the foundation. 1991, c. 8, s. 5.

Chairman

6 The Governor in Council shall designate a member of each foundation to be chairman of the foundation. 1991, c. 8, s. 6.

Powers of foundation

7 Subject to this Act, a foundation has the capacity, rights, powers and privileges of a natural person, and, without restricting the generality of the foregoing, may

- (a) receive by gift, bequest, devise, grant or otherwise property, including money;
- (b) make by-laws for the more effective management of its affairs;
- (c) borrow money and secure the repayment of money or the payment or performance of an obligation by a mortgage of all or any part of its property;
- (d) subject to a contrary intent expressed in a gift, bequest, devise or trust, make any investments that a prudent person would make, notwithstanding the *Trustee Act*;
- (e) employ such officers and employees as are necessary or desirable in attaining its objects and exercising its powers;
- (f) engage, upon such terms and conditions, including remuneration, as the foundation deems fit, the services of such professional persons, technical persons and experts as are necessary or desirable in attaining its objects and exercising its powers. 1991, c. 8, s. 7.

Use of funds, property and capital

8 (1) A designated university may determine the manner in which the funds and property available in each year shall be used and distributed for the benefit of the designated university and its programs, faculty and students and is, in so determining, governed by the provisions of any devise, bequest or trust or any conditions to which a transfer is made pursuant to this Act.

(2) A designated university may transfer to the foundation established for that designated university some or all of the accumulated capital of the designated university that is available for investment, whether the capital is beneficially owned by the designated university or is held in trust for the designated university as the university may direct, and, on being transferred, vests in the foundation subject to such conditions as the university may specify at the time of the transfer.

(3) Where capital that is transferred pursuant to subsection (2) arose from a gift, devise or bequest to the designated university, the foundation established for the university is subject to any conditions in the gift, devise or bequest to the same extent as the designated university.

(4) A foundation to which capital has been transferred pursuant to subsection (2) may transfer the capital back to the university from which it was received. 1991, c. 8, s. 8.

Fiscal year and books of account

9 (1) The fiscal year of a foundation is the period ending the thirty-first day of March in each year.

(2) A foundation shall cause to be kept at its principal office, or such other place as its members direct, proper books of account respecting

(a) all sums of money received and expended by the foundation and the matters in respect of which receipt and expenditure took place; and

(b) the assets and liabilities of the foundation. 1991, c. 8, s. 9.

Auditor

10 (1) A foundation shall appoint an auditor to audit the accounts of the foundation.

(2) An auditor appointed pursuant to subsection (1) shall be either the Auditor General or an accountant licensed pursuant to the *Public Accountants Act*.

(3) The expenses of the audit of a foundation are payable by the foundation as part of the costs of administration of the foundation. 1991, c. 8, s. 10.

Accounts

11 (1) A foundation may maintain in its name one or more accounts in one or more financial institutions designated by the Minister of Finance and Treasury Board.

(2) All money received by a foundation shall be deposited to the credit of the account and may be administered and expended by the foundation in the exercise and performance of the powers, duties and function of the foundation. 1991, c. 8, s. 11; O.I.C. 2013-348.

Annual report

12 (1) Before the thirtieth day of June in each year, each foundation shall make an annual report to the Minister of Labour and Advanced Education containing clear and comprehensive statements disclosing and exhibiting

(a) the audited results of the yearly operation of the foundation ending on the preceding thirty-first day of March;

(b) the audited financial position of the foundation as at the preceding thirty-first day of March; and

(c) such other financial reports or information related to the foundation as may be required by the Minister of Labour and Advanced Education.

(2) *repealed 2020, c. 19, s. 1.*

(3) The Minister may publish the annual report of a foundation at any time. 1991, c. 8, s. 12; 2020, c. 19, s. 1.

Gift or trust for benefit of foundation

13 (1) Where a gift, bequest, devise, grant or deed is made or appears to have been made or intended for the benefit or advantage of a foundation, any property or funds that the donor, testator or grantor desired or intended to give to the foundation vests in the foundation.

(2) A foundation may make application to a judge of the Supreme Court of Nova Scotia in respect of any trusts created or intended for the benefit of the foundation or the designated university for which the foundation is established and the judge, upon hearing the application and such evidence as the judge deems fit, may vary or revoke all or any of the trusts, resettle any interest under a trust or enlarge the powers of the foundation or any person as trustee in the management or administration of any of the property of the trusts so long as the proceeds thereof are used or applied for the benefit of the foundation. 1991, c. 8, s. 13; 2020, c. 19, s. 2.

Exemption from taxation

14 A foundation and its property are exempt from taxation under or pursuant to any Act of the Legislature. 1991, c. 8, s. 14.

Regulations

15 (1) The Governor in Council may make regulations

(a) designating institutions or classes of institutions as universities for the purposes of this Act;

(b) respecting any matter the Governor in Council deems necessary or advisable to carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. 1991, c. 8, s. 15.

Former foundations

15A (1) In this Section, “former foundations” means the following foundations established by this Act:

- (a) the Atlantic School of Theology Foundation;
- (b) the Dalhousie University Foundation;
- (c) the Mount Saint Vincent University Foundation;
- (d) the Saint Mary’s University Foundation;
- (e) the St. Francis Xavier University Foundation;
- (f) the Université Sainte-Anne Foundation;
- (g) the University of King’s College Foundation.

(2) The former foundations are dissolved.

(3) The appointments of the members of the former foundations are revoked.

(4) The appointments of all officers, employees and auditors of the former foundations are revoked.

(5) All contracts, agreements or orders relating to or fixing the amount of compensation, remuneration or fees to be paid to the members referred in subsection (3) and to officers, employees and auditors referred to in subsection (4) are void.

(6) No action lies against Her Majesty in right of the Province in respect of any dissolution, revocation or voiding of any contract, agreement or order under this Section.

(7) All obligations and liabilities of a former foundation become the obligations and liabilities of the university for which the former foundation was established.

(8) All right, title and interest of a former foundation in any real, personal or other property of any nature whatsoever is vested in the university for which the former foundation was established.

(9) In any enactment or document, including any deed, lease, agreement, will, trust, debenture or document evidencing a gift or bequest, a reference to a former foundation, whether by official name or otherwise, is deemed to be a reference to the university for which the former foundation was established. 2020, c. 19, s. 3.

Proclamation

16 This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation. 1991, c. 8, s. 16.

Proclaimed - February 9, 1993
In force - February 9, 1993
