

Maritime Provinces Higher Education Commission Act

Office Consolidation

The following is an office consolidation of the Maritime Provinces Higher Education Commission Act [(New Brunswick; Chapter M-2.5, 2003; assented to April 11, 2003); (Nova Scotia; Chapter 30, Royal assented to October 18, 2004); (Prince Edward Island; Chapter M-2.01, assented to May 10, 2002)].
Proclamation date: January 31, 2005.

NB: Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

NS: Be it enacted by the Governor and Assembly as follows:

PEI: Be it enacted by the Lieutenant-Governor and Legislative Assembly of the Province of Prince Edward Island as follows:

Sections of Act

NB	NS	PEI	Titles / References ⁽¹⁾	
-	1	-		This Act may be cited as the <i>Maritime Provinces Higher Education Commission Act</i> .
1	2	1	<i>Definitions</i>	In this Act
	(a)	(a)	Chair	"Chair" means the Chair of the Commission [appointed under subsection 9(2) -NB;PEI]; [(« <i>président</i> ») -NB]
	(b)	(b)	Chief Executive Officer	"Chief Executive Officer" means the Chief Executive Officer of the Commission [appointed under subsection 10(1) -NB;PEI]; [(« <i>directeur général</i> ») -NB]
	(c)	(c)	Commission	"Commission" means the Maritime Provinces Higher Education Commission [continued under section 2 -NB;PEI]; [(« <i>Commission</i> ») -NB]
	(d)	(d)	Council	"Council" means the Council of Maritime Premiers established pursuant to the <i>Council of Maritime Premiers Act</i> [R.S.P.E.I. 1988, Cap. C-27; -PEI]; [(« <i>Conseil</i> ») -NB]
	(e)	(e)	institutions	"Institutions" means the post-secondary educational institutions prescribed by [the -NS] regulation [for the purposes of this definition -NB;PEI]; [(« <i>établissements</i> ») -NB]
-	(f)	-	Ministers	"minister" of a province means the minister of the Crown responsible for post-secondary education in that province;
	(g)	(f)		"Ministers" means the ministers [of the Crown -NS] responsible for post-secondary education in the Provinces; [(« <i>ministres</i> ») -NB]
	(h)	(g)	post-secondary education, higher education	"post-secondary education" means the education and training provided in or by institutions; [and "higher education" has a corresponding meaning; -NB;PEI]; [(« <i>enseignement postsecondaire</i> ») -NB]
	(i)	(h)	Provinces	"Provinces" means the Province of New Brunswick, the Province of Nova Scotia and the Province of Prince Edward Island; [(« <i>Provinces</i> ») -NB]
	(j)	(i)	region	"region" means the area comprising the Province of New Brunswick, the Province of Nova Scotia and the Province of Prince Edward Island; [(« <i>région</i> ») -NB]
	(k)	(j)	student	"student" means an individual registered as a student in an institution; [(« <i>étudiant</i> ») -NB]

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NB	NS	PEI	Titles / References ⁽¹⁾	
	(l)	(k)	universities	"universities" means the post-secondary educational institutions prescribed by [the -NS] regulation for the purposes of this definition [2002,c.34,s.1 -PEI]; [(« universités ») -NB]
2	3	2	Commission	(1) The body established by the Council and known as the Maritime Provinces Higher Education Commission is continued.
2	3	2	Composition	(2) The Commission [shall -NB;NS] consist of (a) twenty members appointed by the Ministers as set out in section 3 [4 -NS], and (b) the Chief Executive Officer [2002,c.34,s.2 -PEI].
3	4	3	Membership	(1) The Ministers shall [for the purposes of paragraph 2(2)(a) -NB;PEI], appoint members as follows: (a) at least six from among the nominees submitted under [pursuant to -NS] section 4 [5 -NS]; (b) at least six from among senior public officials and the executive heads of non-university institutions; and (c) at least six from the public-at-large, of whom [which -NS;PEI] at least two shall [must -NS] be students.
3	4	3	Provincial representation	(2) At least one of the members appointed [under -NB;PEI]; [pursuant to -NS]; [each of -NB;NS]; [paragraphs -NB]; [clauses -NS;PEI] (1)(a), (b) and (c) shall be selected from each of the Provinces.
3	4	3	Restriction on appointment	(3) No two persons appointed under [pursuant to -NS]; [paragraph -NB]; [clause -NS;PEI] (1)(a) may be selected from the same university.
3	4	3	Deemed appointment	(4) The members of the Commission [who held office -NB;PEI] immediately before the commencement [coming into force -NS] of this subsection, other than the Chief Executive Officer, shall be [are -NS] deemed to have been appointed under [pursuant to -NS] subsection (1) [2002,c.34,s.3 -PEI].
4	5	4	Nominating committee and filling of vacancies	(1) There shall be a nominating committee consisting of (a) the executive heads of the universities, and (b) one representative appointed by the Senate or equivalent academic body of each university, [which -NB;PEI]; [and the -NS] committee shall nominate persons for appointment under [pursuant to -NS]; [paragraph -NB]; [clause -NS;PEI] 3 [4 -NS] (1)(a) and subsections (2) and (3).
4	5	4		(2) Where a vacancy occurs among the members appointed under [pursuant to -NS]; [paragraph -NB] [clause -NS;PEI] 3 [4 -NS] (1)(a), the nominating committee shall submit to the Minister of the province from which the member to be replaced was appointed the names of two persons selected from that Minister's province, and that Minister shall, subject to section 3 [4 -NS], appoint one of such persons to fill the vacancy for the balance of the term of the member replaced.
4	5	4		(3) At least sixty days before the expiration of the term of a member appointed under [pursuant to -NS] paragraph [clause -NS;PEI] 3 [4 -NS] (1)(a), or under subsection (2), the nominating committee shall submit to the Minister of the province from which the member to be replaced was appointed the names of two persons from that Minister's province, and that Minister shall, subject to section 3 [4 -NS], appoint one of such persons to take office on the expiration of such term.
4	5	4		(4) The members of the nominating committee [who held office -NB;PEI] immediately before the commencement [coming into force -NS] of this subsection [and who were -NB;PEI] appointed by the Senate or equivalent academic body of each university shall be [are -NS] deemed to have been appointed under [pursuant to -NS] paragraph [clause -NS;PEI] (1)(b) [2002,c.34,s.4 -PEI].

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NB	NS	PEI	Titles / References ⁽¹⁾	
5	6	5	Filling of other vacancies	Where a vacancy occurs among the members appointed under [pursuant to -NS] paragraph [clause -NS;PEI] 3 [4 -NS] (1)(b) or (c), the Minister of the province from which the member to be replaced was appointed may, subject to section 3 [4 -NS], appoint a person to fill the vacancy (a) for the balance of the unexpired term of the member replaced, or (b) for a new term where the vacancy resulted from the expiration of a term [2002, c.34, s.5 -PEI].
6	7	6	Effect of vacancies	A vacancy in the membership of the Commission shall [does -NS] not impair the right of the remaining members to act so long as at least eleven members, excluding the Chief Executive Officer but including at least three members selected from each of the Provinces, hold office.
7	8	7	Term of office	(1) Subject to subsection 4 [5 -NS] (2) and paragraph [clause -NS;PEI] 5 [6 -NS] (a), a member of the Commission referred to in paragraph [clause -NS;PEI] 2 [3 -NS] (2)(a) shall hold office for three years from the date of appointment or such lesser period as may be specified in the appointment.
7	8	7	Continuation	(2) Notwithstanding subsection (1), a member of the Commission referred to in paragraph [clause -NS;PEI] 2 [3 -NS] (2)(a) remains in office until the member resigns or is reappointed or replaced.
7	8	7	Idem	(3) [On the expiration of the member's term of office, -NB;PEI] a member of the Commission referred to in paragraph [clause -NS;PEI] 2 [3 -NS] (2)(a), [on the expiration of the member's term of office -NS] is eligible for reappointment to the Commission [2002, c.34, s.7 -PEI].
8	9	8	Remuneration of members	Members of the Commission shall be paid such remuneration as may, with the approval of the Ministers, be determined by the Commission, and such actual and reasonable expenses as are incurred by them in the discharge of their duties [2002, c.34, s.8. -PEI].
9	10	9	Chair	(1) The position of Chair shall rotate, in turn, among the Provinces in the following order: [(a) -NS] Province of New Brunswick; [(b) -NS] Province of Prince Edward Island; [(c) -NS] Province of Nova Scotia.
9	10	9	Order of succession	(2) In the order of the Provinces set out in subsection (1), each of the Ministers shall appoint, in turn, from among the members of the Commission selected from the Minister's province, a Chair of the Commission.
9	10	9	Term of office	(3) The Chair shall hold office as chair for a term of two years, or until the expiry of his or her office [the Chair's term -NS] as a member of the Commission, whichever occurs first.
9	10	9	Continuation	(4) Notwithstanding subsection (3), the Chair remains in office as Chair until the Chair resigns or is replaced.
9	10	9	Appointment	(5) The Chair of the Commission [who held office -NB;PEI] immediately before the commencement [coming into force -NS] of this subsection shall be [is -NS] deemed to have been appointed under [pursuant to -NS] subsection (2) [2002, c.34, s.9 -PEI].
10	11	10	Chief Executive Officer	(1) The Ministers, on [the -NB;NS] recommendation of the Commission, shall appoint a Chief Executive Officer of the Commission.
10	11	10	Powers	(2) The Chief Executive Officer is, subject to the direction of the Commission, charged with the general direction, supervision and control of the business of the Commission and may exercise such other powers as may be conferred on the Chief Executive Officer by the Commission.
10	11	10	Full-time position	(3) The Chief Executive Officer shall serve as a full-time employee of the Commission.
10	11	10	Non-voting member	(4) The Chief Executive Officer is a [an <i>ex officio</i> -NB;PEI] non-voting member of the Commission.

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NB	NS	PEI	Titles / References ⁽¹⁾	
10	11	10	Appointment	(5) The Chief Executive Officer [of the Commission -NB;PEI]; [who held office -NB] immediately before the commencement [coming into force -NS] of this subsection shall be [is -NS] deemed to have been appointed under [pursuant to -NS] subsection (1)[2002,c.34,s.10 -PEI].
11	12	11	[Duties -NB]; [Services to student -PEI]	(1) The Commission shall, in carrying out its duties, give first consideration to improving and maintaining the best possible service to students as lifelong learners by <ul style="list-style-type: none"> (a) taking measures intended to ensure that programs of study are of optimum length and best quality, (b) stressing prior learning assessment and recognition, and credit transfer, to implement the principle that duplication of effort is not required in order to gain credit for learning which [that -NS] has been successfully accomplished, (c) promoting smooth transitions between learning and work, (d) promoting equitable and adequate access to learning opportunities, including making those opportunities available at times and places convenient to the student, and (e) taking measures intended to ensure teaching quality.
11	12	11	Duties	(2) The Commission's principal duties are: <ul style="list-style-type: none"> (a) to undertake measures intended to ensure continuous improvement in the quality of academic programs and of teaching at institutions, which without limiting the generality of the foregoing may include the review of institutional programs and practices for assuring such improvement and making recommendations to institutions and the Provinces, (b) to ensure that data and information is collected, maintained and made available for assuring the public accountability of institutions, and to assist institutions and the Provinces in their work, which without limiting the generality of the foregoing may include <ul style="list-style-type: none"> (i) establishing data and system standards, (ii) establishing public reporting requirements and producing public reports, and (iii) carrying out studies in regard to public policy, institutional concerns and issues related to post-secondary education, and providing advice to institutions and the Provinces on these matters, (c) to take initiatives to stimulate cooperative action among institutions and the Provinces where such action is likely to improve the efficiency and effectiveness of the post-secondary education system in the Provinces, which without limiting the generality of the foregoing may include <ul style="list-style-type: none"> (i) encouraging initiatives for institutions to offer joint, complementary and regional programs, and (ii) encouraging administrative, financial and common service arrangements which reduce the overhead cost of programs and the overall cost to students and the Provinces, (d) to continue to develop and administer funding transfers among the Provinces for regional programs, which without limiting the generality of the foregoing may include developing and administering funding arrangements for programs outside the region, as required to provide additional educational opportunities for students from the region, and (e) to undertake such other duties as the Ministers may assign.
11	12	11	Services and functions	(3) The Commission may <ul style="list-style-type: none"> (a) provide such services and functions, as may be agreed upon by the Ministers, to one or more institutions or to one or more of the Provinces, (b) provide such advice and services, as may be agreed upon by the Ministers, to one or more of the Provinces to determine their post-secondary education funding policy, and (c) recommend to the Ministers the names of post-secondary educational institutions that may be added to or deleted from those prescribed by [the -NS] regulation for the purposes of the definitions "institutions" and "universities" [in section 1-NB]; [2002,c.34,s.11 -PEI].

Sections of Act

NB	NS	PEI	Titles / References ⁽¹⁾	
12	13	12	Powers	(1) The Commission has [all -NB;NS] such powers as are necessary for, and ancillary to, the proper performance of its duties, including but not limited to the powers, (a) to engage staff, (b) to establish advisory committees, (c) to enter into contracts where and to the extent that funds have been made available for such purpose, and (d) to require the timely provision of data and information from institutions.
12	13	12	By-laws	(2) Subject to this Act, the Commission may make by-laws respecting its internal organization and the conduct of its business, and may include in such by-laws provision for the election or designation of a vice-chair of the Commission to act in the absence or disability of the Chair or when the office of Chair is vacant.
12	13	12	By-law not regulation	(3) The <i>Regulations Act</i> does not apply to by-laws under [made pursuant to -NS] subsection (2). [A bylaw made under subsection (2) is not a regulation as defined in subclause 1(e) of the <i>Interpretation Act</i> R.S.P.E.I. 1988, Cap. I-8 2002,c.34,s.12 -PEI].
13	14	13	Confidentiality	(1) All data received by the Commission from institutions or any other source is confidential and shall not be disclosed except as provided in this section.
13	14	13	Disclosure	(2) Subject to subsection (3), the Commission may disclose, in aggregate form, data received by the Commission from institutions or any other source.
13	14	13	Edit of information	(3) For the purposes of ensuring the protection of personal information, the Commission shall, before disclosing data received by the Commission from institutions or any other source, remove any portion that would reveal personal information concerning any person [2002,c.34,s.13 -PEI].
14	15	14	Meetings	The Commission shall meet at least four times each year at the call of the Chair [2002,c.34,s.14 -PEI].
15	16	15	Quorum	Subject to section 6 [7 -NS], a majority of the members holding office, excluding the Chief Executive Officer, shall constitute a quorum for the purpose of conducting a meeting provided that at least two members appointed from each of the Provinces are present at the [such -NS;PEI] meeting [2002,c.34, s.15 -PEI].
16	17	16	Accountability	The Commission is accountable to the Ministers [2002,c.34,s.16 -PEI].
17	18	17	Funding policies	(1) The determination of public funding levels for institutions is the sole responsibility of the Provinces.
17	18	17	Advice to Ministers	(2) The Commission shall when requested to do so by the Ministers provide advice or services to the Ministers for determining post-secondary education funding policies and allocations [2002,c.34,s.17 -PEI].
18	19	18	Fiscal year and annual report	(1) The fiscal year of the Commission shall commence [commences -NS] on the first day of April [1 st -NS;PEI]; [in -NB;NS] each year and end on the thirty-first day of March [March 31 st -NS;PEI] in the year next following [immediately following year -NS].
18	19	18	Auditing procedure	(2) The accounts of the Commission shall be audited in accordance with the procedure adopted for auditing the accounts of the Council.
18	19	18	Annual Report	(3) The Commission shall, within six months after the end of each fiscal year, submit to the Ministers and the Council a report containing (a) a review of the Commission's activities during such fiscal year, (b) statements and recommendations regarding such matters in the field of post-secondary education in the region as the Commission considers advisable, and (c) the audited financial statements of the Commission for such fiscal year.

Sections of Act

NB	NS	PEI	Titles / References ⁽¹⁾
18	19	18	Report tabled in Legislature
			(4) The annual report of the Commission shall be tabled in the Legislature as soon as is practicable after [its -PEI] receipt by the Ministers [2002,c.34,s.18 -PEI].
19	20	19	Immunity
			No action or other proceeding lies against the Province, the Commission or any member or employee of the Commission, for any act done in good faith in the execution or intended execution of any duty or power under this Act or for any alleged neglect or default in the execution in good faith of any such duty or power [2002,c.34,s.19 -PEI].
20	21	20	Regulations
			[(1) -NS] The [Lieutenant -NB;PEI] Governor in Council may make regulations (a) prescribing post-secondary educational institutions for the purposes of the definition "institutions" [in section 1 -NB;PEI]; [and -PEI] (b) prescribing post-secondary educational institutions for the purposes of the definition "universities" [in section 1 -NB;PEI]; [2002,c.34,s.20 -PEI].
-	21	-	
			(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the Regulations Act.
21	22	21	Repeal
			[(1) <i>New Brunswick Regulation 88-118 under the Maritime Provinces Higher Education Commission Act is repealed.</i> -NB] [Chapter 270 of the Revised Statutes, 1989, the Maritime Provinces Higher Education (Nova Scotia) Act, is repealed. -NS.] [<i>The Maritime Provinces Higher Education Commission Act</i> R.S.P.E.I. 1988, Cap. M-2 is repealed. 2002,c.34,s.21 -PEI.]
21	-	-	
			(2) <i>The Maritime Provinces Higher Education Commission Act, chapter M-2 of the Revised Statutes, 1973, is repealed.</i>
22	23	22	Commencement [CONSEQUENTIAL AMENDMENTS -PEI]
			<i>[This Act or any provision of it comes into force on a day or days to be fixed by proclamation.</i> -NB] [N.B. This Act was proclaimed and came into force January 31, 2005. -NB] [N.B. This Act is consolidated to January 31, 2005. -NB] [This Act comes into force on such day as the Governor in Council orders and declares by proclamation. -NS] [(1) Section 11 of the Holland College Act R.S.P.E.I. 1988, Cap. H-6 is amended (a) in subsection (1), by the deletion of the words "on the recommendation of the Maritime Provinces Higher Education Commission"; (b) by the repeal of subsection (2); and (c) in subsection (3), by the deletion of the words "on the recommendation of the Maritime Provinces Higher Education Commission"; -PEI]
-	-	22	
			(2) Section 17 of the University Act R.S.P.E.I. 1988, Cap. U-4 is amended (a) in clause (1)(b), by the deletion of the words "on the recommendation of the Maritime Provinces Higher Education Commission"; (b) by the repeal of subsection (2); and (c) in subsection (3), by the deletion of the words "on the recommendation of the Maritime Provinces Higher Education Commission". 2002,c.34,s.22.

⁽¹⁾ New Brunswick and Prince Edward Island include descriptive titles in their respective legislations; Nova Scotia does not. **Bold** font refers to references used in New Brunswick and Prince Edward Island; *italic* font refers to references used in New Brunswick only, and regular font refers to references used in Prince Edward Island only.