

This is an official version.

Copyright © 2006: Queens Printer,
St. John's, Newfoundland and Labrador, Canada

Important Information

(Includes details about the availability of printed and electronic versions of the Statutes.)

Table of Public Statutes

Main Site

How current is this statute?

Responsible Department

SNL1995 CHAPTER E-16.1

EXECUTIVE COUNCIL ACT

Amended:

1997 c13 s20; 1998 c6 s10; 2001 cN-3.1 s2; 2004 cL-3.1 s29; 2005 c15

[Schedules to this Act form separate statutes.

See the Table of Public General Statutes for information regarding amendments or repeals of these individual statutes.]

CHAPTER E-16.1

AN ACT RESPECTING THE EXECUTIVE COUNCIL

(Assented to December 21, 1995)

Analysis

1. Short title
2. Definitions
3. Premier's prerogative
4. Members of executive council
5. Presiding over departments
6. Acting ministers
7. Committees of Cabinet
8. Departmental seal
9. Departmental staff
10. Agreements with governments
11. Agreements generally

12. Delegation of ministerial powers

13. Actions in name of A.G.

14. Copies of documents

15. Acquisition of property

16. Rep. by 2005 c15 s3

17. Transfer of powers

18. Exercise of powers

19. Ss. 17 & 18 take precedence

20. Transfer of money

21. Tariffs or fees

22. Schedules

23. Acts repealed

24. Departments continued

Schedule A

Schedule B

Schedule C

Schedule D

Schedule E

Schedule F

Schedule G

*Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened,
as follows:*

Short title

1. This Act may be cited as the *Executive Council Act*.

1995 cE-16.1 s2

Back to Top

Definitions

2. In this Act

- (a) "department" means a department or branch of the government;
- (b) "executive council" means the executive council of the province; and
- (c) "minister" means a member of the executive council.

1995 cE-16.1 s2; 1997 c13 s20

[Back to Top](#)

Premier's prerogative

3. Nothing in this Act affects a traditional prerogative of the Premier respecting the organization and composition of, appointments to and dismissals from, the Executive Council.

[1995 cE-16.1 s3](#)

[Back to Top](#)

Members of executive council

4. (1) There shall be an executive council consisting of the Premier and those other persons appointed by the Lieutenant-Governor on the advice of the Premier by Commission under the Great Seal of the province.

(2) The Lieutenant-Governor on the advice of the Premier may appoint, by Commission under the Great Seal of the province, from the executive council,

(a) an Attorney General; and

(b) a Registrar General.

(3) The Registrar General shall be the keeper of the Great Seal of the province and shall issue all documents under the Great Seal and countersign them.

(4) The Attorney General shall

(a) be entrusted with the powers, functions and duties which belong to the office of the Attorney General and Solicitor-General of England by law or usage, so far as those powers, functions and duties are applicable to the province, and also with the powers and duties which belong to the office of the Attorney General and Solicitor-General under the laws of Canada and of the province to be administered and carried into effect by the government of the province;

(b) be charged with the settlement of all instruments issued under the Great Seal of the province;

(c) have the regulation and conduct of all litigation for and against the Crown or a department in respect of subjects within the authority or jurisdiction of the Legislature; and

(d) be charged generally with those other powers, functions and duties that are assigned by the Lieutenant-Governor in Council to the Attorney General.

(5) The Attorney General shall administer all Acts, orders and regulations, not assigned to another minister.

[1995 cE-16.1 s4](#)

[Back to Top](#)

Presiding over departments

5. (1) The Lieutenant-Governor in Council may create departments of the government and may on the advice of the Premier appoint ministers of the executive council, to hold office during pleasure, to preside over the individual departments and to discharge those duties, exercise those

powers and perform those functions that the Lieutenant-Governor in Council may determine, and the Lieutenant-Governor in Council may determine the titles by which those ministers shall be known.

(2) As soon as practicable after the creation of a department under subsection (1), the Clerk of the Executive Council shall publish a notice in the *Gazette* containing the name of the department and the powers, duties and functions of the minister responsible for the department.

(3) A notice published under subsection (2) shall contain a list of those Acts the administration of which have been assigned to the minister appointed to preside over the department.

(4) A notice published under subsection (2) constitutes subordinate legislation for the purpose of the *Statutes and Subordinate Legislation Act*.

1995 cE-16.1 s5

[Back to Top](#)

Acting ministers

6. The Lieutenant-Governor in Council on the advice of the Premier may appoint a minister as acting minister for another minister during the absence or incapacity for any cause of that other minister, and all acts of an acting minister shall have the same effect as if done by the minister in whose place he or she is acting.

1995 cE-16.1 s6

[Back to Top](#)

Committees of Cabinet

7. The Lieutenant-Governor in Council on the advice of the Premier may establish those committees of the executive council that he or she considers advisable and may assign the duties and responsibilities of those committees.

1995 cE-16.1 s7

[Back to Top](#)

Departmental seal

8. (1) A department may have a seal that shall be officially and judicially noticed.

(2) Where the official seal of a department is used, it shall be authenticated by the signature of the minister or by the signature of the deputy minister, or, where there is no deputy minister or the deputy minister is absent, by the signature of the person who has been assigned the powers of the deputy minister.

1995 cE-16.1 s8

[Back to Top](#)

Departmental staff

9. (1) The Lieutenant-Governor in Council on the advice of the Premier may appoint for each department, to hold office during pleasure, those deputy ministers and those assistant deputy ministers that the Lieutenant-Governor in Council considers necessary for the proper conduct of the business of the department.

(2) The deputy minister shall be the deputy head of the department.

(3) Where there is no deputy minister or the deputy minister is absent, and unless otherwise provided by the Lieutenant-Governor in Council, an officer named by the minister has the powers and shall perform the duties of the deputy minister.

(4) Those other officers and employees that are necessary for the proper conduct of the business of a department shall be appointed or employed in the manner authorized by law, but a minister may temporarily employ those technical and other assistants that the minister considers necessary.

1995 cE-16.1 s9

[Back to Top](#)

Agreements with governments

10. (1) Subject to the *Intergovernmental Affairs Act* and the requirements of the *Financial Administration Act*, a minister may enter into agreements with the Government of Canada or of a province of Canada or an agency of the Government of Canada or of the government of a province providing for

(a) the joint undertaking by the government of the province or an agency of the government with those governments, or an agency of those governments, of projects relating to an aspect of the powers, functions or duties of the minister; and

(b) the payment by or to the province of contributions in respect of the cost of projects referred to in paragraph (a).

(2) A minister may enter into an agreement with the Nunatsiavut government respecting matters for which an agreement is required under the *Labrador Inuit Land Claims Agreement Act*.

(3) In subsection (2), "Nunatsiavut government" means the Nunatsiavut Government as defined in the *Labrador Inuit Land Claims Agreement Act*.

1995 cE-16.1 s10; 2005 c15 s1; 2004 cL-3.1 s29

[Back to Top](#)

Agreements generally

11. (1) Subject to the requirements of the *Financial Administration Act*, a minister may enter into an agreement for the purpose of exercising or discharging his or her powers, functions or duties.

(2) Notwithstanding subsection (1), the Lieutenant-Governor in Council may require a minister, prior to entering into an agreement or a class of agreements to first obtain the approval of the Lieutenant-Governor in Council or may establish terms and conditions under which a minister may exercise the authority to enter into an agreement or class of agreements.

(3) Power to enter into an agreement shall include power to amend that agreement but, where the approval of the Lieutenant-Governor in Council to the original agreement is required, that approval is also required for an amending agreement.

1995 cE-16.1 s11; 2005 c15 s2

[Back to Top](#)

Delegation of ministerial powers

12. (1) Where, under an Act of the Legislature, power or authority to do an act, including power or authority,

- (a) to enter into an agreement;
- (b) to execute or approve a transfer, deed, conveyance, notice, demand, agreement, lease, caveat, lien, plan or other document;
- (c) to issue, grant, suspend or cancel a permit, licence, certificate or authority;
- (d) to execute, issue or approve an order or requisition, warrant or document, for work, purchase of goods, quotation of prices or articles or materials or other purpose; or
- (e) to receive a notice, direction or other document

is granted to, or vested in, a minister, the minister may, by written authorization, delegate that power or authority to a person employed under him or her, subject to those limitations, restrictions, conditions and requirements as the minister may impose and as are set out in the written authorization.

(2) In exercising a power or authority delegated to him or her under subsection (1), the person to whom it is delegated is bound by, and shall observe and conform to, any limitations, restrictions, conditions and requirements so imposed by the minister or to which the minister is subject in himself or herself exercising the power or authority under the Act in which it is granted to, or vested in, him or her.

(3) Where a minister does not delegate a power or authority under subsection (1), section 21 of the *Interpretation Act* applies for the purpose of determining who may exercise a power or authority of the minister under subsection (1).

1995 cE-16.1 s12

[Back to Top](#)

Actions in name of A.G.

13. Unless otherwise provided by law, all actions, suits and other proceedings taken by a minister or a department for the enforcement of an agreement or for the recovery of damages in tort or arising out of contract or for the trial of a right in respect of real or other property under the control of the minister shall be instituted by and in the name of the Attorney General.

1995 cE-16.1 s13

[Back to Top](#)

Copies of documents

14. A copy of a document, map or plan in the custody of a department, certified by the deputy minister of the department or his or her designate to be a true copy, is considered to be authentic and is, in the absence of evidence to the contrary, evidence of the same legal effect as the original for the purpose of a proceeding in a court or for another purpose.

1995 cE-16.1 s14

[Back to Top](#)

Acquisition of property

15. (1) A minister, for and in the name of the Crown, may acquire by purchase, lease or otherwise and hold, manage and control real or personal property which the minister considers necessary for the proper administration of the department for which he or she is responsible.

(2) A minister may

(a) sell; or

(b) lease or otherwise dispose of for a period and subject to those terms and conditions that the minister may stipulate,

property of which the minister has the management and control.

(3) All money received by a minister in the exercise of the powers conferred on the minister by subsection (2) shall be paid into the Consolidated Revenue Fund.

(4) Where the Crown acquires or disposes of property through a minister, the minister or the deputy minister may execute all documents on behalf of the Crown with his or her signature and official title and with the seal of the department.

1995 cE-16.1 s15

[Back to Top](#)

Rep. by 2005 c15 s3

16. [Rep. by 2005 c15 s3]

2005 c15 s3

[Back to Top](#)

Transfer of powers

17. The Lieutenant-Governor in Council may

(a) transfer powers, duties or functions or the control or supervision of a part of the public service from one minister of the Crown to another minister of the Crown, or from one department or branch of the public service to another department or branch of the public service; or

(b) amalgamate and combine 2 or more departments under one minister of the Crown and under one or more deputy ministers.

1995 cE-16.1 s17

[Back to Top](#)

Exercise of powers

18. Where under section 17, or under another lawful authority, a power, duty or function, or the control or supervision of a part of the public service is transferred from one minister to another minister, or from one department or branch of the public service to another department or branch, the minister, department or branch to which the power, duty, function, control or supervision is transferred, and the appropriate officers of that department or branch shall be substituted for and may exercise the respective powers and duties that formerly belonged to or were exercisable by the minister, department or branch and the respective officers of the department or branch from which the power, duty, function, control or supervision is so transferred.

1995 cE-16.1 s18

[Back to Top](#)

Ss. 17 & 18 take precedence

19. Sections 17 and 18 shall have effect, notwithstanding anything to the contrary contained in another Act or law.

1995 cE-16.1 s19

[Back to Top](#)

Transfer of money

20. (1) Where, under section 17, the duties and functions of a department are transferred to another department, all of the money authorized by an Act of the Legislature to be paid and applied for the purpose of carrying out those duties and functions and remaining unexpended shall, notwithstanding the transfer of those duties and functions, continue to be expended in carrying out those duties and functions.

(2) The Treasury Board shall, following consultation with the Comptroller General of Finance, determine the timing and manner of the transfer of money from one head of expenditure to another consequent on the transfer of duties and functions of one department to another under section 17 taking into consideration the changes required to be made by the comptroller general to the ledger referred to in section 27 of the *Financial Administration Act* and the time required to make those changes.

2005 c15 s4

[Back to Top](#)

Tariffs or fees

21. A minister may establish tariffs or fees that shall be paid to the government in respect of inspections, the issuing of, granting of, registration of, filing of, or application for, commissions, letters patent, licences, permits, documents, conveyances, grants, orders issued, granted, registered or filed by or with a minister, officer of the government, department or government office or in respect of the searching of a register, file or document, kept by a minister, officer of the government, department or government office and that is available for search by the public.

1995 cE-16.1 s21

[Back to Top](#)

Schedules

22. The Schedules to this Act shall, on the coming into force of this Act and, notwithstanding that they have been passed as part of this Act, be considered to constitute Acts of the province and shall be cited and dealt with and shall have the same force as if each Act had been enacted separately by the House of Assembly in legislative session convened.

1995 cE-16.1 s22

[Back to Top](#)

Acts repealed

23. The following Acts are repealed:

1. *Department of Education Act*
2. *Department of Employment and Labour Relations Act*

3. *Department of Environment and Lands Act*
4. *Department of Finance Act*
5. *Department of Fisheries Act*
6. *Department of Forestry and Agriculture Act*
7. *Department of Health Act*
8. *Department of Industry, Trade and Technology Act*
9. *Department of Justice Act*
10. *Department of Mines and Energy Act*
11. *Department of Municipal and Provincial Affairs Act*
12. *Department of Social Services Act*
13. *Department of Tourism and Culture Act*
14. *Department of Works, Services and Transportation Act*
15. *President of the Council Act*
16. *Rearrangements and Transfers of Duties in the Public Service Act*
17. *Solicitor General Act*

1995 cE-16.1 s23

[Back to Top](#)

Departments continued

24. (1) Notwithstanding the repeal of the Acts referred to in section 23, the departments created by those Acts continue to exist until abolished by the Lieutenant-Governor in Council under the authority of this Act.

(2) The ministers appointed to preside over those departments created by the Acts referred to in section 23 and to exercise the powers and perform the duties assigned to them under those Acts shall, notwithstanding the repeal of those Acts, continue to preside over those departments and to exercise those powers and perform those duties until changed by the Lieutenant-Governor in Council under the authority of this Act.

(3) The administration of the Acts assigned to a minister under an Act referred to in section 23, and the regulations made under those Acts, shall continue to be administered by the minister, notwithstanding the repeal of that Act, until those Acts are assigned to another minister by the Lieutenant-Governor in Council under the authority of this Act.

1995 cE-16.1 s24

[Each of the Schedules mentioned below form separate statutes. See the Table of Public General Statutes for information regarding amendments or repeals of these individual statutes.]

[Back to Top](#)

Schedule A

AN ACT RESPECTING EDUCATION

Education Act, SNL1995 cE-2.1

1995 cE-2.1

[Back to Top](#)

Schedule B

AN ACT RESPECTING THE PROTECTION OF THE ENVIRONMENT

Environment Act, SNL1995 cE-13.1

1995 cE-13.1

[Back to Top](#)

Schedule C

AN ACT RESPECTING THE FISHERY

Fisheries Act, SNL1995 cF-12.1

1995 cF-12.1

[Back to Top](#)

Schedule D

**AN ACT RESPECTING THE ADMINISTRATION OF MUNICIPAL
AFFAIRS**

Municipal Affairs Act, SNL1995 cM-20.1

1995 cM-20.1

[Back to Top](#)

Schedule E

**AN ACT RESPECTING THE PROTECTION OF THE HEALTH OF THE
PUBLIC**

Public Health Act, SNL1995 cP-37.1

1995 cP-37.1

[Back to Top](#)

Schedule F

AN ACT RESPECTING THE SOCIAL SERVICES APPEAL BOARD

Social Services Appeal Board Act, SNL1995 cS-17.1

1995 cS-17.1

[Back to Top](#)

Schedule G

**AN ACT RESPECTING PUBLIC WORKS, SERVICES AND
TRANSPORTATION**

Works, Services and Transportation Act, SNL1995 cW-12

1995 cW-12

[Each of the above-noted Schedules form a separate statute. See the Table of Public General Statutes for information regarding amendments or repeals of these individual statutes.]

©Earl G. Tucker, Queen's Printer