

Region of Cape Breton Island Act

AN ACT RESPECTING
REGIONAL AUTONOMY
FOR CAPE BRETON ISLAND

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1 Short title

This Act may be cited as the *Region of Cape Breton Island Act*.

2 Purpose

The purpose of this Act is to

3 Interpretation

In this Act,

4 Region of Cape Breton Island

(1) The inhabitants of the Counties of Cape Breton, Inverness, Richmond and Victoria are, and continue to be, a body corporate under the name “Region of Cape Breton Island”.

(2) The Regional Assembly has the power to enact bylaws in accordance with this Act, and a bylaw is passed by a majority of the votes in the Regional Assembly.

(3) A bylaw of the Region may be amended or repealed only as according to the bylaws of the Region.

5 Chief Commissioner

(1) The Governor in Council shall from time to time appoint a suitable person to be Chief Commissioner of the Region.

(2) The Chief Commissioner shall

(a) hold office during good behaviour;

(b) be paid out of the General Revenue Fund of the Province an amount determined by the House of Assembly; and

(c) before assuming the duties of his or her office, take and subscribe such oaths of office and allegiance as the Governor in Council may prescribe.

(3) Any reference in an enactment of the Province or Region to the "Commissioner in Council" shall be construed as referring to the Chief Commissioner of the Region acting by and with the advice of the Executive Council thereof.

(4) The Governor in Council may from time to time appoint an administrator to execute the office and functions of Chief Commissioner during his or her absence, illness, or other inability.

6 Relations with Parliament

(1) Any agreement between the Government of Canada and the Government of Nova Scotia shall hereafter be an agreement of all three participants between the Government of Canada, the Government of Nova Scotia and the Government of Cape Breton Island.

(2) Notwithstanding subsection (1), the Government of Nova Scotia may make an agreement with the Government of Canada without the agreement of the Government of Cape Breton Island if such an agreement does not affect the Region.

(3) Notwithstanding subsection (1), the Government of Cape Breton Island may make an agreement with the Government of Canada without the agreement of the Government of Nova Scotia if such an agreement does not affect the Province.

(4) If the Minister responsible for this Act determines that an Act of the Parliament of Canada, that is already in effect or that has been introduced to the House of Commons but not yet passed, to be problematic for the Region or the bylaws thereof, or for the Province for reasons related to the Region or the bylaws thereof, he or she is committed to advocating for the resolution of such problems.

7 Legislative powers of the Regional Assembly

(1) The Regional Assembly may exclusively make bylaws in relation to matters coming within the classes of subjects next hereinafter enumerated; that is to say,

(a) direct taxation within the Region in order to the raising of a revenue for regional purposes;

(b) the borrowing of money on the sole credit of the region;

(c) the establishment and tenure of regional offices and the appointment and payment of regional officers;

- (d) the management and sale of the public lands belonging to the Region and of the timber and wood thereon;
 - (e) the establishment, maintenance, and management of public and reformatory prisons in and for the Region;
 - (f) the establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Region, other than marine hospitals;
 - (g) municipal institutions in the Region;
 - (h) shop, saloon, tavern, auctioneer, and other licenses in order to the raising of a revenue for the regional, local, or municipal purposes;
 - (i) local works and undertakings other than such as are of the following classes:
 - (i) lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Region with any other or others of the provinces of Canada, or extending beyond the limits of the Region;
 - (ii) lines of steam ships between the Region and any British or foreign country; or
 - (iii) such works as, although wholly situate within the Region, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two more of the provinces of Canada, or the Region and a province of Canada, or the Region and the Province;
 - (j) the incorporation of companies with regional objects;
 - (k) the solemnization of marriage in the Region;
 - (l) property and civil rights in the Region;
 - (m) the administration of justice in the Region, including the constitution, maintenance and organization of regional courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those courts;
 - (n) the imposition of punishment by fine, penalty, or imprisonment for enforcing any bylaw of the Region made in relation to any matter coming within any of the classes of subjects enumerated in this Section;
 - (o) generally all matters of a merely local or private nature in the Region.
- (2) The Regional Assembly may exclusively make bylaws in relation to
- (a) exploration for non-renewable natural resources in the Region;
 - (b) development, conservation and management of non-renewable natural resources and forestry resources in the Region, including bylaws in relation to the rate of primary production therefrom;
 - (c) development, conservation and management of sites and facilities in the Region for the generation and production of electrical energy;
 - (d) the export from the Region to another part of Canada of the primary production from non-renewable natural resources and forestry resources in the Region and the production from facilities in the Region for the generation of electrical energy, but such bylaws may not authorize or provide for discrimination in prices or in supplies exported to another part of Canada; and
 - (e) the raising of money by any mode or system of taxation in respect of
 - (i) non-renewable natural resources and forestry resources in the Region and the primary production therefrom, and for this clause the expression "primary production" has the meaning assigned by the Sixth Schedule of the *Constitution Act, 1867*; and
 - (ii) sites and facilities in the Region for the generation of electrical energy and the

production therefrom,

whether or not such production is exported in whole or in part from the Region, but such bylaws may not authorize or provide for taxation that differentiates between productions exported to another part of Canada and production not exported from the Region.

(3) Nothing in subsection (2) derogates from the authority of the Parliament of Canada to enact laws in relation to the matters referred to in that subsection and, where such a law of Parliament and bylaw of the Region conflict, the law of Parliament prevails to the extent of the conflict.

(4) The Regional Assembly may exclusively make bylaws in relation to

- (a) education;
- (b) agriculture in the Region; and
- (c) immigration into the Region,

within the limits provided to the provincial legislature under Sections 93 and 95 of the *Constitution Act, 1867*.

(5) Notwithstanding anything in this Act, the Region and the Regional Assembly are subject to provisions of the Parliament of Canada in relation to matters described under Section 94 of the *Constitution Act, 1867*.

(6) This Section shall be interpreted in a similar way as the classes of subjects listed under Sections 92-95 of the *Constitution Act, 1867* are interpreted.

8 Judicature of the Region

The judges of the superior, district, and county courts in the Region are considered to be judges of the superior, district, and county courts in the Province only for the purpose of fulfilling Sections 96-101 of the *Constitution Act, 1867*, and the judges of the Region are not judges of the Province in any other scenario, and matters relating to this Act shall be under the jurisdiction of the superior courts of the Province and not of those of the Region.

9 Revenues, debts, assets and taxation

The Region shall be liable to the Province for its public debts, and the Minister responsible for this Act shall be responsible for the Region fulfilling Sections 102-126 of the *Constitution Act 1867* as they apply to the Region.

10 Treaty obligations

This Act does not abrogate or derogate from the powers granted to the Parliament and Government of Canada under Section 132 of the *Constitution Act, 1867*.

11 Appointment of officers for this Act

Until the House of Assembly otherwise provides, the Governor in Council may from time to time appoint such officers as the Governor in Council deems necessary or proper for the effectual execution of this Act.

12 Representation in the Senate

(1) The Minister responsible for this Act and the Government of Nova Scotia are committed to ensuring that one Senator in the Parliament of Canada representing Nova Scotia is appointed from the Region, and that Senator is not obligated to represent the interests of the inhabitants of the Province

outside of the Region.

(2) The Minister responsible for this Act and the Government of Nova Scotia are not obligated to ensure that the Region is represented by any more Senators in the Parliament of Canada than they are committed to ensure under subsection (1).

(3) The Senators in the Parliament of Canada representing Nova Scotia that are not appointed from the Region are not obligated to represent the interests of the inhabitants of the Region.

13 The Charter of Rights and Freedoms

For the purpose of the Province fulfilling the *Canadian Charter of Rights and Freedoms*, the *Canadian Charter of Rights and Freedoms* has effect over the Region as if the words “province”, “legislative assembly”, “legislature”, “law” or “laws” were the words “region”, “regional assembly”, “regional legislature”, “bylaw” or “bylaws” respectively, but only the Legislature of the Province may make a declaration under Section 33 of the *Canadian Charter of Rights and Freedoms*, and therefore when the Regional Assembly intends to make a declaration for the purpose of a bylaw or bylaws, a representative appointed by the Commissioner in Council shall make that intent known in a speech in the House of Assembly, in order for that declaration to be made by the House of Assembly upon their agreement.

14 Commitment to participation in constitutional conference

When the Premier of Nova Scotia or other person as according to Section 35 of the *Constitution Act, 1982* attends a constitutional conference convened by the Prime Minister of Canada, he or she is committed to represent the concerns of the Regional Minister of Cape Breton Island in addition to his or her normal representation of the Province as a whole.

15 Equalization and regional disparities

(1) The Regional Assembly and the Government of Cape Breton Island are committed to fulfilling Section 36 of the *Constitution Act, 1982*, as if the word “provincial” was the word “regional”.

(2) This Act hereby encourages and gives the Parliament and Government of Canada permission to fulfill Section 36 of the *Constitution Act, 1982* by alternative means than what is established for the provinces of Canada for the Region.

(3) Until the alternative means under subsection (1) are prescribed by the Parliament and Government of Canada, the House of Assembly and the Regional Assembly shall have an agreement on the distribution of the money transferred to the Province by the Government of Canada.

16 Procedure for amending Constitution of Canada

(1) The inhabitants of the Region shall be included with the rest of the Province in any referendum or similar vote prescribed and administered by the Government of Canada or the Government of Nova Scotia.

(2) The Regional Assembly shall use their votes in the Regional Assembly to determine their decision on a question relating to an amendment to the Constitution of Canada or the constitution of the Province as follows: every fraction of the vote, where the denominator is the number of electoral districts of the House of Assembly within the Region, in the positive shall be counted in the positive, and all other fractions including those contested shall be counted in the negative, but if the majority of a contested fraction is in the positive then it shall be counted in the positive.

17 Primacy of Constitution of Canada

Any bylaw of the Region that is inconsistent with the provisions of the Constitution of Canada is, to the extent of the inconsistency, of no force or effect.

18 Transitional provisions

(1) The following bylaws of the Region shall take effect upon this Act coming into effect:

- (a) the *Amendments and Repeals Bylaw*;
- (b) the *Executive Council Bylaw*; and
- (c) the *Regional Assembly Bylaw*,

and the *Rules and Forms of Procedure of the Regional Assembly* (October 2020) shall also take effect upon this Act coming into effect.

(2) The bylaws of the Region not listed under subsection (1) shall have no effect until an agreement is made between the House of Assembly and the Regional Assembly that the bylaws not in effect are ready to be put into effect on a date, or dates, as prescribed by the agreement.

(3) Until an agreement is made under subsection (2), the bylaws of the Region listed under subsection (1) shall not be amended or repealed by the Regional Assembly without an agreement with the House of Assembly.

(4) Until an agreement is made under subsection (2), notwithstanding Section 52A of the *Regional Assembly Bylaw*,

(a) as a peace officer under Section 52A of that Bylaw, the Sergeant-at-Arms of the Region has all the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal, Regional or Provincial enactment; and

(b) the Sergeant-at-Arms of the Region must meet the same requirements, including training certification, that police officers are required to have in order to be permitted to possess and use a firearm in the Province.

(5) Until an agreement is made under subsection (2), notwithstanding anything in this Act or any bylaw of the Region,

(a) the Minister of Justice is responsible, as prescribed by the House of Assembly, for appropriating the application of the *Freedom of Information and Protection of Privacy Act* and the *House of Assembly Management Commission Act* over the Region and the Government of the Region;

(b) the Minister responsible for an Act of the Provincial Legislature mentioned in any of the bylaws listed under subsection (1) other than this Act is responsible, as prescribed by the House of Assembly, for appropriating the application of such Act over the Region and the Government of the Region;

(c) the House of Assembly shall, with respect to the provisions of the *Regional Assembly Bylaw*, prescribe the rules of the Regional Assembly, but the members of the Regional Assembly shall be elected by pick-two voting in each of the electoral districts of the Regional Assembly, and the candidates with the highest number of votes in their respective districts shall become the First Members of their respective districts while the candidates with the second highest number of votes in their respective districts shall become the Second Members of their respective

districts;

(d) the Minister of Finance is responsible, as prescribed by the House of Assembly, for the revenues and expenses of, and all other matters pertaining to, the General Revenue Fund of the Region; and

(e) the General Revenue Fund of the Region shall be funded by the General Revenue Fund of the Province.

(6) Until an agreement is made under subsection (2), notwithstanding anything in this Act or any bylaw of the Region,

(a) the Regional Assembly has the option, by written notice to the Speaker of the House within three days after the introduction of a bill to the House, to participate in the decision-making of that bill;

(b) when the Regional Assembly participates in a vote of the House of Assembly, every one fraction of the votes of the Regional Assembly, where the denominator is the number of electoral districts of the House of Assembly in the Region, vote in the positive, shall be counted as one vote in the positive in the House of Assembly using the votes from one of the electoral districts of the Province in the Region, and the rest of those votes shall be counted in the negative, omitting any that are contested;

(c) the members of the Regional Assembly shall not be compelled to participate in any meeting or committee of the House of Assembly;

(d) when the Regional Assembly participates in the decision-making of a bill introduced to the House, the Regional Assembly shall appoint one of their members to be a member of the committee responsible for that bill; and

(e) the absence of participation of the Regional Assembly in the decision-making of the House of Assembly shall be considered consent of all of the members of the Regional Assembly to any final decision of the House.

19 Provincial electoral districts

(1) No electoral district for the House of Assembly shall cross over the borders of the Region to a part of the Province outside of the Region.

(2) The electoral districts of the Province in the Region shall not have any sitting members, and the absence and participation of such members and of the members of the Regional Assembly shall not contribute to the number of members required for a quorum of the House of Assembly, since the democratic representation of all provincial legislative matters in the Region shall be fulfilled through representation in the Regional Assembly.

20 Federal electoral boundaries

The Minister responsible for this Act is committed to advocating for the electoral boundaries of the House of Commons of Canada to not cross over the borders of the Region to a part of the Province outside of the Region.

21 The Executive Council and Minister responsible for this Act

(1) No member of the Regional Assembly shall be appointed to any office of the Executive Council of the Province.

(2) No member of the House of Assembly of Nova Scotia shall be appointed to any office of the

Executive Council of the Region.

(3) Notwithstanding subsection (1), a member of the Regional Assembly may be appointed as Minister responsible for this Act.

22 Amending or repealing this Act and dissolution of the Region

(1) This Act may only be amended or repealed, and the Region may only be dissolved, with the agreement of the Regional Assembly prior to the introduction of such an amendment, repeal or question of dissolution to the House of Assembly.

(2) In the event that the first Regional Assembly has not yet been elected, an amendment or repeal of this Act shall only take effect by the agreement of a majority of the councils of the municipalities in the Region.
