

# Cape Breton University Act

CHAPTER 484 OF THE REVISED STATUTES, 1989

*as amended by*

1993, c. 48; 2005, c. 30, ss. 2-7



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CHAPTER 484 OF THE REVISED STATUTES, 1989  
amended 1993, c. 48; 2005, c. 30, ss. 2-7

**An Act to Establish  
Cape Breton University and  
Incorporate its Board of Governors**

title amended 2005, c. 30, s. 2

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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 *Cape Breton University Act*. R.S., c. 484, s. 1; 2005, c. 30, s. 3.

**Interpretation**

**2** In this Act,

- (a) “Board” means the Board of Governors of the University;
- (b) “by-laws” means by-laws enacted by the Board;
- (c) “faculty” means the persons employed by the University to carry out teaching or research responsibilities or both, and such other employees of the University as may be given such status by the by-laws but does not include students employed as teaching or research assistants or otherwise;
- (d) “President” means the President of the University;
- (e) “property” means real and personal property and any right, power or authority thereto pertaining;

(f) “University” means Cape Breton University. R.S., c. 484, s. 2; 2005, c. 30, ss. 4, 7.

### University and its Board of Governors

**3 (1)** Cape Breton University is hereby established and created and the Board of Governors thereof is hereby created a body corporate.

**(2)** The Board shall have perpetual succession and a common seal and shall have all the powers and privileges necessary and incidental to the carrying on in the County of Cape Breton of the University and the carrying on either alone or in association with others of related or subsidiary institutions, programs or activities either within or outside of the said County of Cape Breton.

**(3)** The government, conduct, management and control of the University and of its property, revenues, expenditures, business and affairs, shall be vested in the Board and the Board shall have the power, capacity and authority to

(a) purchase or take by donation, deed, devise, bequest, lease, gift, grant or otherwise, real or personal property of any and every description, and hold, sell, lease, mortgage, pledge, charge or hypothecate the same;

(b) borrow money for the purposes of the University and secure the repayment of the same by any form of debenture, bond, mortgage, pledge, charge, deed of trust, hypothecation, promissory note or other security;

(c) draw, make, accept, execute, issue and endorse bills of exchange, cheques, promissory notes, hypothecation forms or such other instruments, as may be found necessary or convenient;

(d) take security by way of mortgage or otherwise for any money from time to time owing to the University, including interest thereon;

(e) subject to any provision to the contrary contained in any trust instrument, invest its money and funds in any bonds, debentures, mortgages, stock, shares and other securities that it may consider proper for investment;

(f) co-operate with any university, college, school or other institution, body or person to achieve the objects of the University and enter into any agreement for that purpose;

(g) charge fees for instruction, tuition, board, lodging or any other privileges furnished by it, and collect and recover the same by action or suit, if necessary.

**(4)** The Board may, if and when it sees fit, make such by-laws, rules and ordinances as are not inconsistent with this Act or any other law of the Province for

(a) the management and conduct of the business of the Board;

(b) the general management of the University and its related or subsidiary institutions, programs and activities;

(c) the appointment of the President, who shall be the Chief Executive Officer and Academic Head of the University and the determination of the powers and authority of the President and the duties and responsibilities and other terms of employment of the President;

(ca) the appointment of a Chancellor and a Vice-chancellor and the determination of the duties, responsibilities and terms of appointment of the Chancellor and the Vice-chancellor;

(d) the appointment, selection, and qualifications of employees of the Board and the regulation of salaries or wages to be paid them;

(e) the management and investment of funds entrusted to it, and the expenditure of the proceeds therefrom;

(f) the regulation of the Board's own meetings and the procedure and order of business to be followed thereat;

(g) the constitution and personnel of the faculty of the University and its committees, and the regular holding of meetings thereof;

(h) the duties and powers of committees of the Board;

(i) all such other matters as may appertain to or be deemed expedient in the best interests of the University. R.S., c. 484, s. 3; 1993, c. 48, s. 1; 2005, c. 30, ss. 5, 7.

#### **Agreements**

**4** Without limiting any power or authority otherwise conferred by this Act, the Board may enter into and carry out agreements with the Board of Governors of St Francis Xavier University, Antigonish, or the Province, or both, to acquire for the uses and purposes of the University property that on the twenty-eighth day of June, 1974, was vested in or held by the said Board of Governors of St Francis Xavier University in Cape Breton County in relation to Xavier College and vested in or held by the Province comprising the site of the Nova Scotia Eastern Institute of Technology and adjacent lands and lands in the immediate environs thereof owned by the Province, and the legal title to such property shall, upon such acquisition, be vested in the Board. R.S., c. 484, s. 4; 2005, c. 30, s. 6.

#### **Legal proceedings**

**5** The Board may sue and be sued in its corporate name in connection with all matters touching the property of the Board, and in all and in every matter in that the said Board may or shall be directly or indirectly interested. R.S., c. 484, s. 5.

#### **Composition of Board**

**6 (1)** The Board shall consist of not more than thirty-six members, and shall be composed of the following:

(a) the President and a senior administrator designated by the President, *ex officio*;

(b) twelve persons appointed by the Minister of Education, eight of whom shall be from Cape Breton Island;

(c) *repealed 1993, c. 48, s. 2.*

(d) four persons appointed by the faculty of the University in the manner prescribed by the by-laws of the Board adopted pursuant to subsection (4) of Section 3;

(e) four students appointed in the manner prescribed by the by-laws of the Board adopted pursuant to subsection (4) of Section 3;

(f) two persons appointed by the Cape Breton Development Corporation; and

(g) up to twelve persons appointed by the members first appointed pursuant to clauses (a) to (f).

(2) The Board shall be deemed to be originally constituted with power to adopt by-laws pursuant to subsection (4) of Section 3 upon appointment of the members mentioned in clauses (b), (c) and (f) of subsection (1).

(3) The persons appointed before the twenty-eighth day of June, 1974, to the Advisory Committee on Post Secondary Education in Cape Breton by the Minister of Education, by the Board of Governors of St Francis Xavier University, Antigonish, and by the Cape Breton Development Corporation shall respectively be deemed hereby to be the first persons appointed to the Board pursuant to clauses (b), (c) and (f) of subsection (1). R.S., c. 484, s. 6; 1993, c. 48, s. 2; 2005, c. 30, s. 7.

#### **Term of office, eligibility and vacancies**

7 (1) The term of office and eligibility of members for appointment or re-appointment to the Board shall be prescribed in the by-laws of the Board adopted pursuant to subsection (4) of Section 3, but, with the exception of the President [and] a senior administrator designated by the President, no member shall be eligible to serve as a member of the Board for more than two consecutive terms.

(2) At a regular meeting of the Board, any vacancies among the members thereof appointed by the Board pursuant to clause (g) of subsection (1) of Section 6 shall be filled.

(3) If a member of the Board who was appointed otherwise than by the Board itself ceases for any reason to be a member thereof, the person or body who or that appointed the member shall appoint another person to serve the unexpired term as a member of the Board. R.S., c. 484, s. 7; 1993, c. 48, s. 3.

#### **Officers and personnel**

8 Subject to the provisions of the by-laws adopted pursuant to subsection (4) of Section 3, the Board shall elect a Chair, and shall appoint a Secretary, a Treasurer and such other officers and such employees and technical and professional advisers as it considers necessary for the proper conduct of its activities. R.S., c. 484, s. 8; 1993, c. 48, s. 4.

#### **Annual audit**

9 (1) The Board shall annually cause the accounts of the University to be examined and audited by a chartered accountant or accountants, appointed annually for that purpose, and may pay the accountant or accountants such salary or remuneration as the Board determines.

(2) Such accountant or accountants shall have access during regular business hours, or upon reasonable notice, to all sources of information under the control of any officer or person or employee of the University.

(3) The accountant or accountants so appointed shall report in writing to the Board respecting such examination and audit and shall submit a copy of any reports to the Minister of Education. R.S., c. 484, s. 9; 1993, c. 48, s. 5; 2005, c. 30, s. 7.

### Meetings

**10** (1) The Board shall hold at least four meetings each year at such time and place as the by-laws may provide.

(2) The Secretary of the Board shall call a meeting of the Board upon the order of the Chair or upon the written request of not less than six members of the Board and, in the event that the Secretary shall for any reason fail to call such a meeting in accordance with such order or request, a meeting may be called by the Chair or such members of the Board.

(3) Notice of each meeting shall be mailed to all members of the Board not later than five days before the date of the meeting and, in the case of a special meeting, shall state the purpose of the meeting.

(4) Subject to such conditions as to the representative composition of a quorum as may be prescribed in the by-laws adopted pursuant to subsection (4) of Section 3, ten members shall constitute a quorum of the Board. R.S., c. 484, s. 10; 1993, c. 48, s. 6.

### Vacancy does not impair

**11** The acts and votes of the Board shall be deemed to be legal and valid notwithstanding the existence of vacancies on the Board at the time of such acts or votes, and the act and vote of a majority of those present and voting at any regularly held meeting shall be deemed to be the act and vote of the Board. R.S., c. 484, s. 11.

### Committees

**12** The Board may appoint such committee or committees as may be deemed necessary or convenient, and may, from time to time, delegate to such committee or committees such powers and duties as may be deemed necessary or advisable. R.S., c. 484, s. 12.

### Contracts

**13** The Board may enter into all contracts as may be necessary or incidental to the carrying out of the objects for which the Board was created, whether such contracts be with individual members of the Board or otherwise. R.S., c. 484, s. 13.

### Diplomas, certificates, degrees and courses of instruction

- 14** (1) The University may grant
- (a) diplomas;
  - (b) certificates;

(c) degrees in respect of courses of study approved by the Maritime Provinces Higher Education Commission.

(2) The Board shall by by-law

(a) designate the manner in which courses of instruction given or provided by or in connection with the University and its related or subsidiary institutions, programs and activities shall be prescribed, regulated and controlled; and

(b) make regulations concerning the granting of all diplomas, certificates and degrees. R.S., c. 484, s. 14; 1993, c. 48, s. 7; 2005, c. 30, s. 7.

### **Apparent gifts**

**15** (1) In case any gift, bequest, devise, donation, grant or deed appears to have been made or intended for the benefit and advantage of the University, or to assist the University, or any of its departments or schools, and such intention is reasonably clear from any document or instrument, such intention shall take effect and shall vest in the Board any property or fund that the donor, testator or grantor obviously desired and intended to give to the Board or to the University.

(2) The Board shall take, possess and use in accordance with the apparent intention of the donor, as nearly as may be, any and every gift, bequest, devise, donation, grant or deed which the donor, testator or grantor appears to have intended to make to or in favour of said Board of the University.

(3) The Board may make application to the Supreme Court under the *Variation of Trusts Act* in respect of any trusts which appear to have been created or intended for the benefit of the University, and the Supreme Court, upon hearing such application and such evidence as it deems fit, may vary or revoke all or any of the said trusts or enlarge the powers of the Board or any other person as trustee in the management or administration of any of the property of the said trusts so long as the proceeds thereof are used or applied for the benefit of the University. R.S., c. 484, s. 15; 2005, c. 30, s. 7.

### **Execution of documents**

**16** Any deed, mortgage, lease, assignment of mortgage, bond, debenture, promissory note, bill of exchange or other document or security, that in the course of business may have to be executed by the Board, shall be signed by the Chairman and the Secretary or by an officer or member of the Board authorized in that behalf by resolution, regulation or by-law, and the seal of the Board shall only be necessary on such documents as would require to be sealed if executed by private individuals. R.S., c. 484, s. 16.

### **Personal liability**

**17** No member or officer of the Board shall be personally liable for the debts or liabilities of the Board unless he shall have made himself personally liable therefor. R.S., c. 484, s. 17.

### **Nova Scotia Eastern Institute of Technology**

**18** (1) In this Section, "person" includes the person appointed to replace a person who has ceased to be employed but does not include a person

appointed to a position which was not included in the Nova Scotia Eastern Institute of Technology immediately prior to the incorporation of the Board.

(2) Persons who, immediately prior to the incorporation of the Board, were employed by the Province in the Nova Scotia Eastern Institute of Technology, and receiving benefits set out in agreements concluded between the Province and the Nova Scotia Government Employees Association shall be entitled to continue to receive the same benefits for a period of not more than two years from the date of incorporation of the Board, unless, by majority vote of those employees in each of the classifications, such employees agree to other terms and conditions of employment.

(3) In all other respects, such employees shall be and become employees of the Board and shall be subject to its direction, supervision and control.  
R.S., c. 484, s. 18.

19 *repealed 1993, c. 48, s. 8.*

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