



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PRIVATE SCHOOLS ACT

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca



PRIVATE SCHOOLS ACT

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PRIVATE SCHOOLS ACT

CHAPTER P-20.01

1. Definitions

In this Act,

- (a) “**Administrator**” means the Administrator of Private Schools appointed under section 2;
- (b) “**instructor**” means any person who teaches or instructs in a private school;
- (c) “**Minister**” means the Minister of Education and Lifelong Learning;
- (d) “**person of compulsory school age**” means a person from six to 16 years of age, and includes a person who will reach the age of six on or before December 31 of the school year;
- (e) “**private school**” means a private school or place in which instruction in an elementary or secondary education program is offered or provided to persons of compulsory school age, but does not include
 - (i) a school operated by an education authority under the *Education Act*,
 - (ii) an early learning and child care centre that is authorized under an Act to operate in the province, or
 - (iii) other places specified in the regulations;
- (f) “**school year**” means a school year as defined in the *Education Act* R.S.P.E.I. 1988, Cap. E-.02;
- (g) “**student**” means a person enrolled in an elementary or secondary education program offered or provided by a private school. *2016,c.21,s.1; 2019,c.1,s.3.*

2. Administrator of Private Schools

There shall be appointed pursuant to the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8, an Administrator of Private Schools who, subject to the direction of the Minister, is responsible for the administration of this Act. *2016,c.21,s.2.*

3. Prohibition

No person shall operate a private school unless that private school is registered under this Act. *2016,c.21,s.3.*

4. Application

- (1) A person may apply to the Administrator, in the form required by the Administrator, to register a private school.

Requirements for registration

- (2) The application for registration referred to in subsection (1) shall be accompanied by the information and documents, and the fee, specified in the regulations.

Registration

- (3) The Administrator may register a private school if the Administrator is satisfied that
- (a) the applicant has submitted the application required under subsection (1) and the information, documents and fee required under subsection (2); and
 - (b) the applicant and the premises of the private school meet the requirements specified in the regulations.

Terms and conditions

- (4) The Administrator may, in the Administrator's discretion, impose terms and conditions on the registration of a private school in accordance with the regulations.

Refusal

- (5) The Administrator may refuse to register a private school if
- (a) the Administrator is not satisfied that the applicant has met the requirements of subsection (3);
 - (b) the Administrator has reasonable grounds to believe that the applicant knowingly made a false statement in the application or the information or documents provided pursuant to subsection (2); or
 - (c) the Administrator has reasonable grounds to believe that the applicant or a person associated with the applicant is not suitable to have contact with students.

Person associated

- (6) For the purposes of clause (5)(c), an individual is deemed to be associated with an applicant if the individual
- (a) resides in premises in which the proposed private school will be operated;
 - (b) is a partner of the applicant, if the applicant is applying to register the private school on behalf of the partnership; or
 - (c) is a shareholder or director of the corporation, if the applicant is the corporation or a partnership that includes the corporation.

Notice of refusal

- (7) The Administrator shall notify an applicant whose application is refused under subsection (5) immediately, and shall provide the reasons for the refusal and information respecting the applicant's right under section 12 to appeal the decision of the Administrator. *2016, c.21, s.4.*

5. Requirements, instructors

- (1) The operator of a private school shall ensure that each instructor at the private school
- (a) is at least 18 years of age;
 - (b) holds the academic qualifications required by the regulations; and
 - (c) provides to the operator a criminal record check and vulnerable sector search dated not earlier than six months prior to the date it is provided
 - (i) within eight weeks of commencing employment at the private school, and
 - (ii) at least every three years during the instructor's employment at the private school.

Idem

- (2) The operator of a private school shall ensure that no instructor is permitted unsupervised access to students unless
- (a) the instructor has complied with clause (1)(c); and
 - (b) based on the results of the criminal record check and the vulnerable sector search, the operator concludes that there are no reasonable grounds to believe that the instructor may endanger the health, safety or well-being of the students. *2016,c.21,s.5.*

6. Annual report

- (1) The operator of a private school shall provide to the Minister an annual report on student enrolment at the private school on or before September 30 of each year.

Monthly report

- (2) The operator of a private school shall provide to the Minister a monthly report on student attendance, on or before the 15th day of the following month, for every month of the school year.

Required content

- (3) The reports required under subsections (1) and (2) shall contain the information specified in the regulations. *2016,c.21,s.6.*

7. Placement of students

The operator of a private school shall ensure that, when a child is enrolled in the private school,

- (a) a child who is five years of age or will attain the age of five on or before December 31 of the school year is enrolled in a kindergarten program; and
- (b) a child who is six years of age or will attain the age of six on or before December 31 of the school year is
 - (i) enrolled in grade one, if the child has completed a kindergarten program, or
 - (ii) enrolled in a kindergarten program, if the child has not completed a kindergarten program. *2016,c.21,s.7.*

8. Inspector

- (1) The Administrator, or any person authorized by the Administrator, may inspect any private school at any reasonable time during its hours of operation
- (a) to observe the operation of the private school;
 - (b) to inspect records and other documents relating to student enrolment;
 - (c) to inspect records and other documents relating to employment of instructors; and
 - (d) to ensure compliance with this Act and the regulations.

Co-operation with inspector

- (2) Where an inspection is carried out pursuant to subsection (1), the operator of the private school and every officer, instructor and other employee of the private school shall provide the person conducting the inspection with such information and documentation as that person may require. *2016,c.21,s.8.*

9. Authority of Administrator

- (1) Where the Administrator is satisfied that an operator of a private school, or any instructor or other employee of a private school, registered under this Act has failed to comply with this Act or the regulations, the Administrator may, subject to subsections (2) and (3),
- (a) suspend the registration of the private school; or
 - (b) cancel the registration of the private school.

Order

- (2) Where the Administrator has grounds under subsection (1) to suspend or cancel the registration of a private school,
- (a) the Administrator may order the operator of the private school to comply with the Act and regulations within 30 days of the date of the order; and
 - (b) where the operator of the private school has not complied with the Administrator's order under this subsection within 30 days, the Administrator may suspend or cancel the registration of the private school.

Immediate suspension or cancellation

- (3) The Administrator may order immediate suspension or cancellation of the registration of a private school if the operator has failed to comply with provisions of this Act or the regulations relating to
- (a) health and safety standards required to be maintained under the regulations; or
 - (b) the health, safety or well-being of students.

Notice

- (4) The Administrator shall notify the operator of a private school whose registration is suspended or cancelled under this section immediately, and shall provide the reasons for the suspension or cancellation and information respecting the operator's right under section 12 to appeal the decision of the Administrator.

Idem

- (5) Where the Administrator makes an order under this section, the Administrator shall
- (a) post the order in a place that is prominent and clearly visible on the premises of the private school; and
 - (b) send a copy of the order by ordinary mail, by facsimile or by electronic means to the parent or guardian of each student who is enrolled at the private school.

Notice by other means

- (6) Where it is not practicable to send a copy of the order to each parent or guardian under clause (5)(b), the Administrator may provide notice of the order by any means of communication that the Administrator considers will make it known to the majority of the parents or guardians. *2016,c.21,s.9.*

10. Offence

- (1) A person who operates a private school in contravention of section 3 is guilty of an offence and is liable on summary conviction to a fine of not less than \$500.

Continuing offence

- (2) A person who commits or continues an offence referred to under subsection (1) on more than one day may be convicted of a separate offence for each day or part of a day on which the offence is committed or continued.

Officers, directors, etc.

- (3) Where a corporation commits an offence under section 3, any officer, director or agent of the corporation who directed, authorized, assented to or acquiesced in the commission of the offence is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence, whether or not the corporation has been prosecuted for or convicted of the offence. *2016,c.21,s.10.*

11. Limitation on action

No operator of a private school shall institute any action or other proceedings in any court in the province on any contract respecting the business carried on by the operator at the private school unless that private school is registered under this Act. *2016,c.21,s.11.*

12. Appeal

- (1) Where the Administrator refuses to register a private school or suspends or cancels the registration of a private school, the applicant or operator of the private school, as the case may be, may appeal the decision to an Appeal Board established in accordance with the regulations.

Notice of appeal

- (2) A notice of appeal, in the form approved by the Minister, shall be filed with the chairperson of the Appeal Board within 21 days of receipt of notice of refusal to register or notice of suspension or cancellation of registration.

Hearing

- (3) The Appeal Board shall hear an appeal within 30 days after notice of appeal is received by the chairperson of the Appeal Board.

Powers of Appeal Board

- (4) After hearing an appeal pursuant to this section, the Appeal Board may confirm, vary or set aside the decision of the Administrator.

Decision final

- (5) A decision of the Appeal Board pursuant to this section is final. *2016,c.21,s.12.*

13. Inspection

- (1) In accordance with the *Public Health Act* R.S.P.E.I. 1988, Cap. P-30.1, a public health official may
- (a) on the request of the Administrator, inspect a private school in respect of which an application for registration has been made; and
 - (b) periodically, inspect a private school,
- with respect to matters relating to public health, including public health hazards, sanitation, potable water and food handling.

Report

- (2) Where a public health official conducts an inspection pursuant to subsection (1), the public health official shall, on completion of the inspection,
- (a) prepare a report detailing the inspection; and
 - (b) provide a copy of the report to the operator of the private school and to the Administrator. *2016,c.21,s.13.*

14. Provision of textbooks

The Minister may provide authorized textbooks to the operator of a private school for the use of students, and may require payment, in respect of each book or set or class of books, of

- (a) a refundable deposit in an amount determined by the Minister; or
- (b) a prescribed fee. *2016,c.21,s.14.*

15. Diplomas, etc.

- (1) The Minister may grant diplomas or provincial certificates to students of a private school in accordance with the regulations.

Repeal

- (2) This section is repealed on June 30, 2020. *2016,c.21,s.15.*

16. Limitation of action

No action or proceeding for damages or any other loss may be brought against the Minister, the Administrator or a person authorized by the Administrator under section 8 for any act done in good faith in the performance or intended performance of a duty or the exercise or intended exercise of a power under this Act, or for any neglect or default in the performance or exercise in good faith of that duty or power. *2016,c.21,s.16.*

17. Regulations

- (1) The Lieutenant Governor in Council may make regulations
- (a) prescribing requirements with respect to the establishment and operation of a private school, including requirements with respect to
 - (i) administrative procedures and processes, including record keeping and confidentiality of information,
 - (ii) insurance requirements,
 - (iii) requirements respecting the premises of a private school,
 - (iv) health, fire and safety requirements, including emergency and evacuation procedures, and
 - (v) the required academic qualifications of instructors;
 - (b) prescribing terms and conditions that may be imposed, and the circumstances in which they may be imposed, by the Administrator on the registration of a private school under subsection 4(4);
 - (c) respecting the content of reports to be provided by an operator of a private school under section 6;
 - (d) prescribing the information, documents and fees that shall accompany any application made under this Act or the regulations;

- (e) setting out circumstances that constitute reasonable grounds to believe that a person is not suitable to have contact with students receiving instruction at a private school;
- (f) respecting the composition, functions and procedures of the Appeal Board;
- (g) respecting the fee payable by the operator of a private school for authorized textbooks provided by the Minister under section 14;
- (h) respecting the granting of diplomas or provincial certificates by the Minister to students of a private school; and
- (i) generally for the better administration of this Act.

Repeal

- (2) Clause (1)(h) is repealed on June 30, 2020. *2016,c.21,s.17.*

18. License deemed registration

Any private school licensed under the *School Act* R.S.P.E.I. 1988, Cap. S-2.1, on the date this Act comes into force shall be deemed to be registered under this Act, subject to any conditions or restrictions imposed on the license. *2016,c.21,s.18.*

19. Application continues

On the coming into force of this Act, an application by a person under section 133 of the *School Act* for a license to operate a private school that was commenced prior to and not concluded on the coming into force of this Act is continued as an application for registration of the private school under this Act. *2016,c.21,s.19.*