



New Municipal Government Act: An Overview

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Note: This document has been prepared by the Municipal Affairs Section of the Department of Communities, Land and Environment for general information purposes. This document should not be relied upon as a substitute for specialized legal or professional advice. Please note the *Municipal Government Act* received Royal Assent on December 15, 2016 and is scheduled to come into force upon proclamation in 2017.



New Municipal Government Act:

Transition Timelines

Transitions Overview

Some provisions of the Municipal Government Act (MGA) provide dates or deadlines to meet different requirements. Some of the dates in the Act have been revised to reflect feedback received during the consultations.

The MGA will not come into effect until it is proclaimed. The timelines presented in this section are based on the schedule of the MGA being proclaimed in 2017.

New Municipal Legislation: What's Changing

What changes take effect when the MGA is proclaimed?

As soon as the Act is proclaimed, municipalities will have to ensure:

- They follow the new conflict of interest standards;
- They prepare for new content and process requirements for their 2018 budget;
- That council members are not fulfilling duties of employees;
- That a municipal office is designated; and
- They budget for an audit or if their budgeted expenditures are less than \$50,000, a review engagement.

Anything else that is not explicitly transitioned will come into effect as soon as the Act is proclaimed. However, there will be no change to the fiscal year for municipalities in 2017: it will remain as January 1, 2017, to December 31, 2017.

What is required within one year of the MGA being proclaimed?

Assuming the MGA is proclaimed in 2017, there will be a number of changes and requirements that will take effect in 2018:

- There will be a 15 month fiscal year running from January 1, 2018 to March 31, 2019;
- Municipalities will need to adopt, by resolution, an operating budget and a capital budget for the fiscal year on or before March 31, 2018;
- Enumeration and voters lists must be prepared by municipalities no later than July 30, 2018;
- Municipalities will need to have their election procedures in place;
- Council sizes are to comply with those listed in the MGA as of the 2018 election – current members of council continue in place until the next council takes office in December 2018.

There are also a number of bylaws that are required to be in place within 12 months of the MGA taking effect. These bylaws, which may be subject to regulation, are:

- An access to information and protection of privacy bylaw;
- A conflict of interest bylaw;
- A code of conduct bylaw for council;
- A code of conduct policy for employees;
- A records retention and disposition bylaw; and
- A procedural bylaw

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New Municipal Legislation: What's Changing

What are the longer term timelines?

The main changes for municipalities in 2019, assuming the MGA is proclaimed in 2017, are related to finances. Starting in 2019, the fiscal year for municipalities will run from April 1 of the current to March 31 of the next. This will align the fiscal year of municipalities with that of the Province.

Three years after the MGA is proclaimed, municipalities will be required to have an approved emergency management program in place. Additionally, all municipalities will be required to have a full financial audit each year.

Five years after the MGA is proclaimed, municipalities will need to have land use plans and supporting bylaws in place and are required to have a municipal office that is accessible to all members of the public open for a minimum of 20 hours per week.



New Municipal Government Act:

Overview of Changes to Municipal Restructuring

Existing Legislation Framework: What's in Place Currently

Existing municipal restructuring processes and procedures are not consistent.

The Minister is responsible for the review of applications for: forming a new municipality in an unincorporated area, amalgamating two or more municipalities, dissolving a municipality and changing the status or name of a municipality. The final decisions regarding these processes are then made by the Lieutenant Governor in Council.

For a municipality to annex land outside of its boundaries, the Island Regulatory and Appeals Commission (IRAC) must hold a public hearing and provide a report and recommendation to the Minister. The report and recommendations produced are then brought to the Lieutenant Governor in Council for a decision.

New Municipal Legislation: What's Changing

Separate Processes

The process for physically changing municipal boundaries has been separated from the processes for changing the name or class of a municipality. This provides an opportunity for increased consultation with both the public and municipal councils and a standardized process for doing so.

Initiating a Restructuring of Physical Boundaries

All processes for the establishment, dissolution and restructuring (amalgamation, annexation and boundary changes) of a municipality will now involve a single and consistent approach. The formation of a new municipality may be initiated by either the Minister or by a petition signed by at least 30% of the population who would be electors of the new municipality. The dissolution or restructuring of municipal boundaries, including annexation, amalgamations and boundary changes, may be initiated by either the Minister or the council of a municipality.

Proposals for formation, dissolution or restructuring need to be in writing and filed with the Island Regulatory and Appeals Commission (IRAC). If the proposal would result in a town or city that does not meet certain criteria that are described in the new Act, the proposal must be submitted to and approved by the Minister prior to being accepted by IRAC.

Stakeholder Engagement

IRAC will notify and inform the Minister, nearby municipalities, nearby First Nations Bands, the Federation of Prince Edward Island Municipalities (FPEIM) and the public about the proposal through various methods. Once notice has been provided, any person opposing the proposal has 30 days to file a written objection with IRAC.

If the Minister determines there is a significant public interest in the proposal after the objection period, IRAC will hold a public hearing. IRAC may also decide to hold a public hearing without direction from the Minister if objections to the proposal have been received.

If an objection is received from a municipality during the objection period for a restructuring, IRAC will appoint a mediator to assist the municipalities in resolving the dispute. If, following the mediation, the dispute remains unresolved and the objection is not withdrawn by the municipality, IRAC will hold a public hearing.

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New Municipal Legislation: What's Changing

Cost

The cost associated with any proposal to establish, restructure, or dissolve a municipality, including costs for notification or for holding a hearing, will be the responsibility of the applicant. The cost associated with any mediation will be the responsibility of the parties involved and the mediator may recommend to IRAC how the cost of the mediation be split between the parties involved.

Criteria and Conditions

Regulations will set out criteria and minimum standards that must be taken into consideration regarding the establishment or restructuring of municipalities.

IRAC Recommendations

Once any mediation or public hearings are complete, IRAC will provide the Minister with a written report containing its findings, recommendations and reasons for the recommendations. IRAC will send a copy of the report to the person or persons who made the proposal, nearby municipalities, nearby First Nations Bands, the FPEIM, and any other persons that IRAC believes should receive it.

Decision Making

The Minister will review the report from IRAC and will make a recommendation to the Lieutenant Governor in Council. The Lieutenant Governor in Council may then decide to:

- Establish or restructure the boundaries as proposed or with changes;
- Deny the establishment or restructuring as proposed; or
- Approve or deny the dissolution of the municipality.

Changing a Municipality's Name or Class

A municipal council must apply in writing to the Minister to have the name or class of their municipality changed. The Minister has flexibility in engaging with the public on changes to a municipality's name or municipal class. For example, the Minister may invite residents to provide written submissions or might hold public meetings to gather feedback. Other methods may be used to collect information if the Minister thinks it is necessary for considering the request.

The Minister will consider the submissions and comments prior to making a recommendation to the Lieutenant Governor in Council. Lieutenant Governor in Council may then approve or deny the change of name or change of status for the municipality.



New Municipal Government Act:

Mandatory, Additional and Administrative Services

Existing Legislation: What's in Place Currently

Cities, towns and communities have authority to provide a variety of services ranging from fire protection to public transportation.

The existing list of services is very specific and prescriptive.

A municipal council must appoint an administrative officer as well as any other municipal officer that it thinks is necessary in order to provide administrative services to the municipality.

New Municipal Legislation: What's Changing

Mandatory Services

All municipalities will be required to provide mandatory municipal services and each municipality has the authority to establish bylaws to provide additional services described in the Act.

The following services will be mandatory for all municipalities:

- Fire protection;
- Municipal land use planning services, including official plans and bylaws; and
- Emergency measures planning

While all municipalities will be responsible for providing these basic services, some municipalities may choose to share services or contract with other municipalities for the service.

Additional Services

A municipal council may pass bylaws and provide services for the following:

- Protecting the safety, health, and welfare of people and property
- Municipal utilities, facilities, works, and improvements on private and public land
- Businesses, business activities and persons engaged in business
- Acquisition of land and improvements by expropriation for municipal purposes with the exception of land owned by the Government of Prince Edward Island, Government of Canada or a Prince Edward Island First Nation Band
- Acquisition, sale, management, mortgaging, construction, leasing, renting, or any other dealings with real property
- Public places and spaces
- Construction, demolition, removal, or alteration of any building or structure including signage
- The use of motor vehicles or other vehicles, on or off highways, and the regulation of traffic, parking, and pedestrians
- Management and control of highways and sidewalks in the municipality
- Subject to the ongoing review of police services, police services
- Transport and transportation systems including taxi drivers, vehicles and taxi businesses, and other forms of public transport
- Nuisances, loitering, dangerous or unsightly property, noise, pollution and waste



New Municipal Legislation: What's Changing

Additional Services Cont'd

- Establishment, operation and decommissioning of cemeteries
- Vegetation and activities in relation to it, including but not limited to tree preservation, protection, development and implementation of maintenance standards for trees and other vegetation
- Control and health and safety of wild and domestic animals including insects and birds, as well as protection from them
- Protection of the environment
- Regulation of the discharge of firearms
- Parks and recreation
- Pension and benefit plans for municipal employees
- Community and regional development in cooperation with neighbouring municipalities or provincial organizations
- Libraries
- Regulation of real property maintenance and the protection of heritage property
- Enforcement of bylaws

Administrative Services

All municipal councils will be required to have a municipal office within the municipality. The council must notify the public of the location of the office and advise the Minister of the civic address of the municipal office in writing. Within five years of the Act coming into force, all municipal councils must ensure that the municipal office is accessible to all members of the public. They will also be required to establish and maintain regular office hours. Municipal offices must be open to serve the public for not less 20 hours per week and the hours of operation must be published.

Compliance with Provincial Standards

Bylaws and services must be consistent with provincial legislation, including but not limited to, the following:

- *Cemeteries Act*
- *Emergency Measures Act*
- *Environmental Protection Act*
- *Fire Prevention Act*
- *Highway Signage Act*
- *Highway Traffic Act*
- *Labour Act*
- *Off Highway Vehicle Act*
- *Pesticide Control Act*
- *Planning Act*
- *Police Act*
- *Provincial Building Code Act*

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New Municipal Government Act:

Existing Municipalities and New Municipalities

Existing Legislation: What's in Place Currently

There are currently four classes of municipalities:

- Cities
- Towns
- Communities
- Resort Municipalities

The powers and processes for municipalities vary depending on their class.

Municipal classes are based on specific size or other criteria.

The current council size for cities, towns and communities varies.

New Municipal Legislation: What's Changing

Classes of Municipalities

Existing municipalities will be continued in the new Act as follows:

- Cities will be continued as 'City of...'
- Towns will be continued as 'Town of...'
- Communities will be continued as 'Rural Municipality of...'
- The Resort Municipality will be continued as the 'Resort Municipality of...' (no additional resort municipalities will be established under the Act).

Continuation as a Municipality

Existing municipalities may continue as they currently exist, with communities becoming rural municipalities. New administration, governance and service standards will apply to all municipalities, regardless of their size. Many of these standards will be phased in over time.

Proposals to Change Class or Restructure

Existing municipalities proposing to change class or expand through a restructuring process (amalgamation, annexation or boundary change) will be required to meet new standards and criteria.

Formation of New Municipalities

Any new municipality will need to meet minimum criteria including size and assessment base described below as well as any other criteria in regulation. For cities, minimum criteria includes an estimated population of 15,000 or greater and a total property assessment value of \$750,000,000 or greater. For towns, minimum criteria includes an estimated population of over 4,000 persons, but not more than 14,999 persons and a total property assessment value of over \$200,000,000, but not more than \$749,999,999.

Rural Municipality

The Act provides flexibility to allow for the restructuring of a municipality that does not meet the minimum criteria for size and assessment base under certain limited circumstances.

Council Size

Effective at the time of the 2018 municipal elections, council sizes for towns, rural municipalities and the Resort Municipality will be a mayor and six councillors, or a mayor and eight councillors with a bylaw to that effect. For cities, council size will be a mayor and eight councillors, or a mayor and ten councillors with a bylaw to that effect.

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New Municipal Government Act: Fact Sheet

Overview of Changes for the Resort Municipality

Existing Legislation: What's in Place Currently

The Resort Municipality holds elections in August and the new council takes office in September. At least two seats on council must be filled by full-time residents who are not 'temporary residents.'

The Resort holds an annual meeting in August. During the meeting, the budget is approved on a service by service basis by residents and eligible temporary residents.

The voting privileges for qualifying residents are extended to 'temporary residents' including landowners in the resort area who are seasonal residents, operators of a business enterprise in the area, or farmers who live outside the area but who own and farm land in the area.

The *Municipalities Act* allows for the creation of new resort municipalities.

New Municipal Legislation: What's Changing

Annual Meeting

An annual meeting of residents will not be required, although municipalities could, through a procedural bylaw, determine that they would start or continue to hold this type of public meeting.

Budgeting

All municipalities will be on the same fiscal year of April to March. Financial plans that include an operating budget, capital budget, and 5-year capital plan will need to be approved by March 31 (prior to the start of each fiscal year) and submitted to the Province by April 15th of that fiscal year.

After a holding a public meeting to receive comments from the public, budgets will be approved by council without a requirement for public voting. Tax rates will be set by resolution after the approval of the financial plan and will be submitted to the Province by March 31st.

Eligible Voters

Eligibility to vote will be extended to:

- Individuals over the age of 18 who are Canadian citizens, have lived in PEI for the six-month period before the day of the election, and who are ordinarily resident in the Resort on the day of the election; and
- Non-resident property electors (those who are not ordinarily resident but who are the registered owner of land in the municipality on or before the day of the election); or
- In the case of non-resident property electors who are a corporation or a co-operative association, the individual who has been designated as the voter on behalf of the corporation or co-operative association.

Eligibility for Candidates

The Resort Municipality will continue to be able to have regular residents and non-resident property electors as councillors. However, where a non-resident property elector is a corporation or an incorporated co-operative association, only an individual has an ownership or membership interest of at least 25 per cent in the corporation or incorporated co-operative association and meets all other nomination criteria for candidacy in the Resort Municipality is permitted to be nominated as a candidate.

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New Municipal Legislation: What's Changing

Council Composition

At least half of the council members of the Resort Municipality will be required to be ordinarily resident in the municipality. Elections in the Resort Municipality will take place in August and the new council will take office in September.

Changes over Time

The Resort Municipality will be continued under the new Act, but no new resort municipalities will be permitted. If the number of qualified electors were ever to exceed 2,000 people, the Minister may recommend to the Lieutenant Governor in Council that the Resort Municipality be converted to a regular municipality.



New Municipal Government Act: Fact Sheet

Overview of Changes to Elections

Existing Legislative Framework: What's in Place Currently

Election processes are inconsistent. The procedure and timeframes for conducting elections differ for cities, towns, communities and the Resort Municipality.

While the qualifications of electors are described in the Acts, the qualifications of candidates are not.

If a town is divided into wards or polling divisions, elections must be conducted by a deputy returning officer and poll clerk for each ward or polling division. In any town having more than one ward, a person may only vote in the ward in which he or she lives.

The *Charlottetown Area Municipalities Act* has rules regarding municipal employees and political activity.

New Municipal Legislation: What's Changing

All-Day Elections

Election processes are the same for all municipalities and the procedures for general elections are guided by regulations. Each municipality will hold an all-day general election every four years. Starting in 2018, municipal elections will take place on the first Monday in November with the exception of the Resort Municipality. The next general municipal election will be held on Monday November 5, 2018.

Advance Polls

Each municipality must appoint a municipal electoral officer to oversee the election process. The municipal electoral officer has a variety of responsibilities including holding advance polls and ensuring that the ballots marked during an advance poll are kept secret and secure until they can be counted on election day after all polls have closed.

Establishing Election Bylaws

Municipal councils may establish bylaws to conduct and oversee elections, divide the municipality into wards and set up mobile polling stations.

Qualifications of Electors and Candidates

The qualifications for both electors and candidates are listed and described. The qualifications for electors state the requirements a person must meet if they want to vote in an election within their municipality. The qualifications for candidates describe the requirements a person must meet to be nominated as a candidate or elected to a municipal council.

Voting Using Alternative Methods

Guided by regulations, a municipality may make bylaws that enable voters to cast their vote by mail-in ballot or other means, including electronic voting.

Election by Ward or at Large

The Act describes the various forms that municipal elections may take and the procedures for conducting each of them. A council may, by bylaw, divide a municipality into wards and allow council members to be elected on this basis. Mayors will continue to be elected at large. There are also requirements regarding eligibility, the total number of candidates that can be elected and the creation of an Electoral Boundaries Commission to review the wards every three years following a municipal election after the Act comes into force. Municipal elections will be at large, if a municipality is not divided into wards.

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New Municipal Legislation: What's Changing

Nomination, Acclamation and Vacancies

The procedures and time periods for nominating a candidate as well as declaring a candidate elected by acclamation are described. If fewer people are nominated as candidates than the number required to be elected to municipal council, additional time is allowed nominating candidates. If there are not enough nominations received at the end of this time period to fill the vacancies on council require an election, the Minister may appoint the required number of councillors as long as they are qualified to hold office and are residents of the municipality. The Minister may also recommend to the Lieutenant Governor and Council that the municipality be restructured as set out in another part of the Act.

Campaign Contributions, Spending Limits and Disclosures

All municipal councils are required to establish a bylaw regarding contribution eligibility, campaign contribution limits, disclosure requirements, and spending limits for the mayor and councillors.

Eligibility of Municipal Employees to Seek Election to Municipal Council

The requirements and procedures related to the eligibility and actions of an employee of a municipality who wants to seek election to municipal council are set out in the Act. An employee who meets all the qualifications and requirements is eligible to be a candidate under the Act. However, the Act requires that an employee apply for leave of absence without pay prior to declaring his or her candidacy and conditions regarding this process are set out in the Act. The Act also describes rules related to employee conduct and activity during an election and allows municipal councils to make bylaws that restrict specific types of municipal employees from participating in elections.



New Municipal Government Act: Fact Sheet

Overview of Changes to Council Meetings

Existing Legislative Framework: What's in Place Currently

The requirements for municipal council sizes vary under the current Acts. Depending upon the type of municipality, council sizes currently range between three and ten councillors plus a mayor or a chair.

Under the *Municipalities Act*, councils must conduct at least one meeting a year.

Under the *Charlottetown and Area Municipalities Act*, councils must hold monthly meetings and at least seven days public notice is required prior to holding a special meeting.

Under the *City of Summerside Act*, council must hold regular monthly meetings on a day determined by council.

New Municipal Legislation: What's Changing

Council Size

The size of a council for a municipality that is a town or rural municipality has been changed for greater clarity and consistency. Under the new Act, councils for towns and rural municipalities will require a mayor and six councillors. A council may consist of a mayor and eight councillors if a municipal council has passed a bylaw to this effect.

Duties of Council

The role and duties of council are clarified and described in greater detail. These duties include: carrying out duties and functions expressly given to council in the legislation; requirement to develop policies related to programs and services; appointment of a Chief Administrative Officer (CAO); requirement to develop a procedural bylaw for council and council committee meetings; development of a Code of Conduct for council; and the proper exercise of municipal powers.

Membership on Council Committees

Under the Act, the mayor is considered to be a member of every committee or other organization which the council or mayor establishes. When in attendance at meetings, the mayor has all the rights, privileges, powers, and duties of the other members of the committee or organization.

Requirement for a Code of Conduct

Municipal councils will be required to develop Codes of Conduct for council members and employees that describe the procedure to be followed where either a councillor or an employee knows or questions whether he/she has a conflict of interest. They must also include rules regarding confidentiality and disclosure and describe a process for resolving a conflict of interest.

Requirement to Develop a Procedural Bylaw

All municipal councils will be required to develop a procedural bylaw that establishes rules of procedure for council and council committee meetings including: establishment of council committees; calling, rescheduling and cancelling of meetings; processes for giving advance public notice of meetings and council committee meetings; and meeting governance.

Regular Meeting of Council

Under the new Act, municipal councils are required to establish an annual schedule of meetings and at least six meetings each year must be open to the public.

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New Municipal Legislation: What's Changing

Special Meetings

A special meeting can be called by the CAO when requested to do so by the mayor or a majority of council members. The notification requirements for special meetings are more flexible. Under the new Act, at least 24 hours' notice must be given to the public in advance of special meetings through local media, or as described in the procedural bylaw, and to council members.

Closed Meetings

The procedures for conducting closed meetings are clarified and described. Under the new Act, a council or council committee may, by resolution, close all or part of the meeting to the public either in advance or during the meeting, but only to discuss the following matters: confidential information; commercial information that could be damaging to the municipality if disclosed; protected personal information; human resource related matters; matters still under consideration by council that, if discussed in public prior to a decision being made, could limit the municipality's ability to act or negotiate on behalf of residents; current legal matters including investigations; and information which, if disclosed, could prejudice security and the maintenance of the law.

Electronic Meetings

The requirements for conducting meetings of council and council committees by electronic means are described. Under the new Act, electronic meetings are allowed if authorized by procedural bylaw and if they are conducted in a way that enables the council and committee members to hear and speak to each other. If the meeting is a public meeting, notice must be given to the public that includes notification of the means by which it is to be conducted and the meeting facility must be set up to ensure the public is able to see and hear participants in the meeting. In addition, a council or committee member can only debate and vote on a matter if the member has access to all relevant information required to make an informed decision.

Secret Voting

Under the new Act, no vote of council may be taken by secret ballot and any vote taken in this manner is not valid.



New Municipal Government Act: Fact Sheet

Overview of Changes to Council Structure

Existing Legislation: What's in Place Currently

The structure of municipal councils varies under the current Acts. The City of Charlottetown must have a mayor and ten councillors, the City of Summerside must have a mayor and eight councillors, and the Towns of Stratford and Cornwall must have a mayor and six councillors each.

All other municipalities are required to have a mayor or chairperson and between three and six councillors. There are exceptions to this rule, with some councils having more than a mayor and six councillors.

The current Acts also differs in the naming of some elected officials. In cities and town there are mayors and deputy mayors, where communities have chairpersons and vice-chairpersons.

New Municipal Legislation: What's Changing

Size

Councils of towns, rural municipalities and the resort municipality will have a mayor and six councillors unless the council passes a bylaw to increase its size to a mayor and eight councillors. For cities, there will be a mayor and eight councillors unless the city's council passes a bylaw to increase the number of councillors to ten.

Titles

The title of chairperson and vice-chairperson are not used in the new Act. Instead, all municipalities will have a mayor and a deputy mayor.

Role of the Mayor

The mayor's role is to provide leadership to the council and the Chief Administrative Officer of the municipality. The mayor is responsible for presiding over council meetings, performing the duties of a member of council and casting the deciding vote on bylaws and resolutions when there is a tie in the votes cast by the rest of the council. The mayor only votes to break a tie.

Role of the Deputy Mayor

A deputy mayor is selected by the mayor from the members of council. The role of the deputy mayor is to fulfil the duties of a regular council member and to carry out the duties of the mayor if the mayor is absent or incapacitated. A deputy mayor remains in this role until the appointment is withdrawn and another member of council is appointed as the deputy mayor or until the person is no longer a member of council.

Acting Mayor

A council may appoint an acting mayor from its members if the mayor and deputy mayor are unavailable and neither have appointed another member of council to act in their place or if the office of the mayor and deputy mayor are vacant. The councillor appointed as acting mayor remains in the position until the mayor or deputy mayor is available or a new mayor is elected.

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New Municipal Government Act:

Overview of Changes to Role of Council

Existing Legislation: What's in Place Currently

Municipalities are limited to a specific list of services that they can provide. It is the role of the council to make policies and pass bylaws to provide these services to meet the needs of the public.

The services that a municipal council is responsible for varies. As a result, councils have been required to make requests to the province to expand the scope of their authority to better serve their residents.

Councils are required to appoint an administrator or chief administrative officer (CAO). The administrator or CAO may not be a member of council.

Other requirements regarding the role of council are found throughout the legislation.

New Municipal Legislation: What's Changing

Clear Purpose and Broad Powers

Municipal councils will have more authority and flexibility to provide services. Under the new Act, a council is responsible for providing services, facilities and other things that the council considers necessary or desirable for the municipality. In addition, the new Act defines the purpose of a council to include providing good government, providing stewardship of public assets and developing, maintaining a safe and viable municipality and encouraging and enabling the public to participate in matters affecting the municipality. All municipalities will be required to provide three mandatory services: fire protection, land use planning services, and emergency measures planning.

Duties of Council

While the new Act provides councils with broader authority, it also clarifies the duties of a council. These duties include:

- Developing policies for services and programs
- Evaluating services and programs on a regular basis
- Appointing, directing and managing a chief administrative officer (CAO)
- Revoking or suspending the CAO's appointment if required
- Establishing a procedural bylaw
- Establishing a code of conduct that includes conflict of interest rules
- Ensuring the powers of the municipality and council are used appropriately and that their duties and functions are carried out
- Exercising the powers of council or the municipality by passing bylaws or resolutions

Delegation of Role

A council may delegate some of its powers, duties or functions to a council committee or to the CAO by bylaw. A council cannot delegate its power or duty to pass a resolution or bylaw, choose or revoke the appointment of the CAO, hold public hearings or hear and decide on appeals either under its own bylaws or the Act. If a council committee or CAO wants to further delegate any powers, duties or functions, the council must allow them to do so by resolution.

Additional Duties and Powers of a Municipality

There are a variety of other duties and powers of a municipality that can or must be carried out through its council. Examples include:

- Maintaining a corporate seal
- Adopting a flag, crest, logo, emblem, trademark or coat of arms
- Entering into agreements for the provision of services
- Disposing of land.

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New Municipal Government Act:

Overview of Changes to the Role of the Administrator

Existing Legislation: What's in Place Currently

Municipalities must appoint an administrator or chief administrative officer (CAO).

The CAO or administrator of a municipality is responsible for the records and the finances of the municipality, notifying members of council about council meetings, being responsible for the corporate seal of the municipality and signing all agreements, contracts, deeds and bylaws.

A CAO or administrator also performs many other administrative functions relating to elections, bylaws and providing notice to the Minister and the public.

New Municipal Legislation: What's Changing

Position and Title

All administrators of municipalities will have the title of the Chief Administrative Officer (CAO) of the municipality in which they are appointed.

Delegation of Authority

A council may delegate specified powers, duties, or functions, by bylaw, to the CAO. The CAO may further delegate the powers, duties or functions if council passes a bylaw to that effect. CAOs will be able to delegate any of their own duties or responsibilities (those not delegated to them by council) unless they are prohibited from doing so by bylaw.

Expansion of Duties

Under the new Act, the CAO will have expanded and more clearly defined duties. The CAO is the administrative head of the municipality and reports directly to council. The CAO is responsible for:

- Ensuring that resolutions and policies of the municipality are followed with and that its programs are implemented
- Advising and informing the council on the operation and affairs of the municipality
- Hiring, directing, managing, and supervising the employees of the municipality
- Exercising the powers and carrying out the duties and functions assigned to the CAO by the council and by this or another Act
- Notifying council if any action or inaction by council or the municipality is contrary to a bylaw or resolution of council or provincial legislation.

Clarity in Responsibilities

CAOs will be responsible for various administrative functions in municipalities:

- Ensuring all minutes of council meetings are recorded
- Recording the names of council members present at council meetings
- Ensuring the minutes of each council meeting are given to council for approval at the next regular council meeting
- Safe keeping of the corporate seal of the municipality, bylaws, minutes of council meetings and all other records and documents, funds and securities of the municipality
- Advising council of its responsibilities under provincial legislation or a bylaw

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New Municipal Legislation: What's Changing

CAO responsibilities cont'd

- Providing the Minister with statements, reports or other information regarding the municipality that the Minister requires or is entitled to under provincial legislation
- Carrying out the official correspondence of the council according to the council's directions
- Maintaining an indexed register containing certified copies of the bylaws
- Maintaining an indexed register containing certified copies of the resolutions
- Opening one or more accounts in the name of the municipality in a chartered bank or other financial institution approved by the council and ensuring that money of the municipality is collected, received and deposited in the accounts
- Disbursing the funds of the municipality only in the manner and to the persons as directed by law or by the bylaws or resolutions of council
- Maintaining a complete and accurate account of assets and liabilities and all transactions affecting the financial position of the municipality in accordance with the Canadian accounting standards for the public sector, as recommended by the Public Sector Accounting Board of the Chartered Professional Accountants of Canada
- Providing all financial statements and information to council when requested
- Completing an audited financial statement on or before June 30 in each year as required under the new Act
- Taking charge and safely keeping all books, documents and records of the municipality that are committed to his or her charge
- Producing all books, vouchers, papers and money belonging to the municipality when called for by the council, auditor, Minister or other competent authority
- On ceasing to hold office, delivery of all books, vouchers, papers and moneys belonging to the municipality to his or her successor in office or to any other person the council may designate
- Carrying out other duties assigned by council.

Oversight of Employees

The CAO is the primary point of contact between council and municipal employees. No council member or member of a committee established by a council can publicly or privately instruct or direct an employee of the municipality except through the CAO. However, a council member or member of a committee established by a council may communicate directly with an employee of the municipality to obtain or provide information.



New Municipal Government Act: Fact Sheet

Overview of Changes to Financial Matters

Existing Legislation: What's in Place Currently

The fiscal year for municipalities is the calendar year.

Budget estimates of communities must be voted on and approved by residents. Following the approval of the budget estimates for any year and after crediting expected revenue from all sources, a municipal council may, by resolution set a rate of municipal taxation.

Municipal councils must not project a deficit in their annual budgets for expenses other than capital expenses.

A council may dispense with the audit requirement if annual budgeted expenses are less than \$50,000.

A municipal council may establish a reserve fund for capital project costs and the cost of any land, machinery or equipment necessary for the completion of projects.

New Municipal Legislation: What's Changing

Fiscal Year

The fiscal year for municipalities is changing. Commencing on April 1, 2019, the fiscal year will run from April 1 to March 31. In order to aid this transition, the period from January 1, 2017, to March 31, 2019, covers two fiscal years as follows: January 1, 2017, to December 31, 2017; and January 1, 2018, to March 31, 2019.

Financial Plan

Municipalities will be required to develop and adopt a financial plan by March 31 for the next fiscal year to support responsible long term financial planning. The financial plan must include an operating budget, capital budget, 5-year capital plan, and an asset management strategy. Municipal councils will be required to give public notice and hold a public meeting regarding the financial plan prior to adopting it.

Budget

All municipal councils will now have authority to approve their annual budgets without the requirement for public voting.

Deficits

A council cannot project a deficit in its operating budget for any fiscal year other than for amortization and its public utility. If an operating deficit is projected at the end of a fiscal year that is not offset from a reserve fund or surplus fund, the operating deficit must be debited to the operating fund for the next fiscal year unless the Minister has approved another way to address it.

If a municipal council determines during the fiscal year that their operating expenses are likely exceed revenues and transfers provided for in their operating budget by more than five percent, the council must notify the Minister immediately and the Minister may approve the operational deficit for that fiscal year.

Borrowing

There is greater clarity and guidance regarding borrowing. Municipal councils will be required to establish a bylaw in order to borrow money for capital costs and money borrowed by a council for a capital cost cannot be used for any purpose other than the purpose stated in the bylaw. A council may also authorize the borrowing of money to finance operational costs, but only on a short term basis.

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New Municipal Legislation: What's Changing

Reserve Funds

There is greater clarity and guidance regarding reserve funds. Municipal councils will be required to establish a bylaw regarding contribution, withdrawal and transfer of money from reserve funds.

Audit and Review Engagement

All municipalities will be required to appoint an auditor to conduct an annual audit that meets public sector accounting standards by March 31, 2019. Until March 31, 2019, existing municipalities that have an annual budget of less than \$50,000 can dispense with the audit requirement and, instead, appoint an auditor to undertake a review engagement. A review engagement involves the preparation and review of financial statements to determine whether or not they are credible.

Reporting

Audit and review engagement reports for the previous fiscal year must be produced and submitted to the Chief Administrative Officer (CAO) of a municipality each year on or before June 30. The CAO must then forward a copy of report to the council and the Minister no later than July 15 in that year.

Municipal Taxation

Councils will set tax rates within the municipality by resolution. A council may, by bylaw, establish tax rate groups within the municipality and apply different tax rates to each group to reflect differences in the services or levels of service provided to each group. A council may also set a different tax rate where it has created a levy group based on property use or type. Council must notify the Provincial Tax Commissioner in writing regarding the rate or rates of taxation to be set for the period of January to December prior to March 31 of the year to which the rates apply. Notification to the Tax Commissioner will also be required if a municipality changes its boundaries, tax areas or levy groups between January 1 of the current tax year and January 1 of the previous tax year.

Procurement Agreements

All municipal purchasing as well as the procurement of goods and services and/or contracts for construction must meet the terms and conditions set out in the Atlantic Procurement Agreement, the Agreement on Internal Trade, and any other trade agreement directed by the Lieutenant Governor and Council.



New Municipal Government Act: Fact Sheet

Overview of Changes to Grants and Support

Existing Legislation: What's in Place Currently

The current Acts do not provide clear direction on how loans, grants and other forms of assistance or support can or should be provided by municipalities.

New Municipal Legislation: What's Changing

How Municipalities can Provide Assistance or Support

The new Act provides municipalities with the ability to provide various types of assistance or support to residents, organizations, groups and controlled corporations. To provide support or assistance, such as grants or loans, a municipality must first pass a bylaw.

Types of Assistance or Support

Municipalities can offer the following assistance or support by bylaw:

- Grant money, service charges, fees, land or items owned by the municipality
- Loan money and guarantee repayment of loans
- Provide the use of municipal land or items owned by the municipality
- Sell or lease land or items that are the property of the municipality for an amount far lower than market value
- Offer services of municipal officers, employees and agents
- Donate goods purchased for that purpose by the municipality.

Bylaw Content

A bylaw passed by a municipality to provide assistance or support must contain a list of eligibility requirements to apply for, and receiving, a grant, gift, loan of money or municipal property or guarantee of loan repayment. Additionally, if the municipality is passing a bylaw to allow them to provide a loan or guarantee loan repayment, the bylaw must specify the interest rate, any terms and conditions, and other details that the Act describes.

Conditions on Loans and Guarantees of Loan Repayment

Councils can only lend money or guarantee the repayment of a loan to a non-profit organization or a controlled corporation and the loan or guarantee must be used to benefit the municipality. Council also needs to ensure that providing the loan or guarantee does not make the municipality exceed its own borrowing limits. Each loan or guarantee provided by a council must be specifically authorized by a bylaw of the municipality.

Issuing Grants or Other Assistance

Grants and other assistance, excluding loaning money and guaranteeing loan repayment, may be issued by a council under any terms and conditions council considers appropriate to any person, group, body or fund. The only requirement is that the council needs to consider the use of the grant or assistance to be for a purpose that is in the interest of the municipality.

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New Municipal Government Act:

Overview of Changes to Municipal Utilities

Existing Legislation: What's in Place Currently

All municipalities currently have the ability to establish water and sewer utilities, by bylaw, to provide services to their residents.

Water and sewer utilities are established as separate corporate entities under the current Acts and set service rates which must then be approved by IRAC.

The water and sewer utilities of the cities of Charlottetown and Summerside and the Towns of Stratford and Cornwall are exempt from the requirement to have IRAC approve their rates.

Summerside is the only municipality on PEI with the ability to establish and operate a municipal electric utility.

New Municipal Legislation: What's Changing

Increased Scope of Municipal Utilities

Municipalities will be given broader powers for creating municipal utilities under the new Act. Any municipality will have the ability to establish a municipal utility to provide water, sewerage services, public transportation, heat, waste heat, and other services or products for public consumption, benefit, convenience or use. This does not include the ability to establish an electric utility, which is restricted to Maritime Electric and the City of Summerside Electric Utility.

How Utilities are Set Up

Public or municipal utilities may be established as or included in a department of the municipality or may be established as a controlled corporation. Public utilities, which refer to those that provide water and sewerage service, will require a bylaw to set out the establishment, management and maintenance of the service.

All other utilities that a municipality wishes to operate may also be established, managed and maintained by bylaw, with any municipal utility charges being set and imposed through a bylaw.

Approval of Rates for Water and Sewer Utilities

The municipality will set the rates for their water and sewerage utilities in accordance with the *Water and Sewerage Act*, under which the City of Charlottetown, the City of Summerside, the Town of Stratford and the Town of Cornwall will continue to approve their own water and sewer rates. All other municipalities will need to have their water and sewer rates approved by the Island Regulatory and Appeals Commission. Rates must be sufficient to cover the cost of providing the water or sewer service.

Increased Accountability and Transparency

Public utilities will be required to prepare annual financial plans. The annual financial plans will need to contain, at a minimum:

- an operating budget that includes estimates of revenues and expenditures,
- a capital budget, and
- on and after March 31, 2019, a five-year capital expenditure program that includes an asset management program.

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New Municipal Government Act: Fact Sheet

Powers of the Minister: Audit, Inspection, Inquiry

Existing Legislation: What's in Place Currently

If a municipality fails or neglects to hold an election according to the rules for conducting elections under the legislation, the Minister has the power to conduct a survey of residents in the municipality to determine whether or not they wish to continue to have municipal status. The Minister also has the power to act in the place of council for the purpose of holding an election.

If a survey of residents in a municipality shows that the majority of those residents do not want to have municipal status, the Minister has the power to recommend to the Lieutenant Governor in Council (LGIC) that the municipality be dissolved and the LGIC may then decide to issue an order to do so.

New Municipal Legislation: What's Changing

Under the new Act, the Minister has a much wider range of powers and tools to ensure greater accountability, transparency and good governance.

Financial Audit

The Minister will be able to appoint an auditor to examine the accounts of a municipality, municipal committee or other group established by a council or by a controlled corporation. The Minister will have the power to appoint an auditor if requested to do so by a municipal council, if the Minister considers it necessary or if the Minister receives a petition requesting an audit that is signed by at least 2,000 electors or 30% of the electors listed in the list of electors for the municipality compiled by Elections P.E.I. at the date of the petition, whichever is less. If no list of electors for the municipality has been compiled in the last three years prior to the petition, the Minister may accept a petition from 15% of the total population of the municipality.

An auditor appointed by the Minister will be required to prepare a report and deliver it to the Minister, the council and the committee or other body established by a council or controlled corporation that has been audited. The auditor will also be required to prepare a report for the public in a form that has been authorized by the Minister.

If an auditor appointed by the Minister finds any irregularities related to the accounts of a municipality, committee, or other administrative body established by council or a controlled corporation as a result of completing an audit, the auditor will report these results separately to the Minister.

A municipality, council committee or a municipally controlled corporation will be responsible for all of the costs associated with an audit completed under the authority of the Minister.

Inspection

The Minister will have the power to order an inspection of any matter connected with the management, administration or operation of a municipality, council committee or other administrative body established by a council or a controlled corporation at any time that the Minister considers it necessary to do so.



New Municipal Legislation: What's Changing

Inspection Cont'd

The Minister may also order an inspection when requested to do so by a municipal council or if the Minister receives a petition requesting an inspection signed by at least 2,000 electors or 30% of the electors on the list of electors for the municipality compiled by Elections P.E.I. at the date of the petition, whichever is less. If no list of electors for the municipality has been compiled in the last three years prior the petition, the Minister may accept a petition from 15% of the total population of the municipality as shown on the most recent census for that area.

The Minister has the power to appoint a person to conduct an inspection. After the completion of an inspection, the inspector will be required to report the results to the Minister, the municipal council, the controlled corporation or a committee or other administrative body of council. Any information disclosed in the report may also be disclosed to the public only by the Minister in a manner that the Minister considers appropriate or by the municipal council with the written approval of the Minister.

The municipality is responsible to the Minister for the costs of an inspection, as determined by the Minister.

Inquiry

The Minister will be able to order an inquiry at any time that the Minister considers it necessary to do so or on the request of a municipal council. The Minister may order an inquiry into the affairs of the municipality, a council committee, a controlled corporation or any other group established by the council. Furthermore, the Minister may also order an inquiry into the conduct of a council member, municipal employee or agent, committee member or a member of any other body established by council.

The Minister may appoint a person to conduct the inquiry and he or she will have the same powers as those given to a commissioner under provincial legislation. The Minister also has the authority to determine the person's compensation and expenses. However, the municipality is liable to the Minister for the costs associated with it including the compensation and expenses of the person conducting it.

The person appointed to conduct an inquiry will be required to report the results to the Minister, the council, the board of directors of a controlled corporation or the committee or other body of a controlled corporation. At the end of an inquiry, the Minister may declare that a council member is disqualified and dismiss him or her from council.



New Municipal Legislation: What's Changing

Orders of the Minister

The Minister has the power to determine the action to be taken as a result of an audit, inspection, inquiry or other examination as well as any other contravention of the Act. The Minister has the power, by order, to direct a council to take any action that the Minister considers appropriate in the circumstances including appointing a person to act as a supervisor to monitor and report on the progress of the action the Minister has ordered. The Minister can also specify the compensation that is to be paid to the supervisor by the municipality.

Dismissal of Council

If an order of the Minister is not carried out to the satisfaction of the Minister, the Minister may dismiss any member of council or dismiss the entire council. The Minister may also recommend that the Lieutenant Governor in Council order that money payable by the Government to the municipality be withheld pending compliance with the Minister's order or that the municipality be declared ineligible, for the period of time specified in the order, to apply for funding programs administered by the Government.

On the dismissal of a council or a member of council, the council or member is no longer qualified to act on behalf of the municipality or to exercise the powers granted to it under the Act. The Minister may appoint a person to take the place of the council member who has been dismissed for the balance of that member's term of office. On the dismissal of an entire council, the Minister will be able to appoint a person immediately as the official trustee of the municipality.

Other Powers

The new Act gives the Minister other powers and discretion in many different areas such as municipal financial matters and the establishment, restructuring and dissolution of municipal boundaries.

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New Municipal Government Act: Fact Sheet

Bylaw Enforcement, Offences and Liability

Existing Legislation: What's in Place Currently

A municipality may appoint bylaw enforcement officers and may share officers between municipalities.

A bylaw enforcement officer may issue a municipal ticket if there are reasonable grounds for doing so.

Enforcement bylaws may authorize the issuing of an offence ticket only if the bylaw relates to animal control, dangerous or unsightly premises, the parking of vehicles or noise or public nuisance control.

Council members, council committees, the administrator and any other individuals acting on their instructions or under the authority of the Act, are not personally liable for any loss or damage suffered by any person by reason of anything that is done or not done in good faith.

New Municipal Legislation: What's Changing

Bylaw Enforcement Officers

A municipality may appoint bylaw enforcement officers and an officer who works in that role for one municipality may also be employed in the same capacity for another municipality. Bylaw enforcement officers are appointed by the Chief Administrative Officer (CAO) and will report to the CAO of the municipality for whom they work.

A municipal council will be required to establish a bylaw that relates to the education and experience qualifications required for a person to be employed as a bylaw enforcement officer. The bylaw must describe the complaint and discipline process with respect to complaints regarding inappropriate conduct made against a bylaw enforcement officer.

Time Period for Prosecutions and Civil Actions

The time period for commencing a prosecution for an offence contravening a bylaw must be within six months following the date of the alleged contravention of the bylaw or the Act. Most other actions against the municipality must be commenced within 12 months after the cause of the action first arose.

Enforcement Bylaws

Municipal councils will be able to make bylaws that authorize a municipal offence ticket be issued for a wider range of offences. These tickets can be issued for the contravention of a bylaw if the bylaw relates to the following:

- Animal control
- Dangerous or unsightly premises
- Noise or public nuisance control
- The parking of vehicles
- Planning and development control under the *Planning Act*
- Smoking in or on municipal property
- Signage
- Pesticide control
- Any other matter specified in the regulations

Penalties and Fines

Unless a bylaw provides for a different penalty, a person who contravenes a bylaw is guilty of an offence and is liable on conviction to a fine of not less than \$200 and not more than \$10,000. Additional fines are permitted for each day or part of a day on which the offence continues after the first day. A person may also be imprisoned for up to one year or may be both fined and imprisoned.

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New Municipal Legislation: What's Changing

Fines and Penalties Cont'd

Every fine imposed by a municipality with respect to enforcement of its bylaws will be an amount owing to the municipality, except as otherwise provided in an agreement with the Province.

Notice of Inspection

If the Act or a bylaw established by a municipal council authorizes or requires an enforcement officer or an employee of the municipality to inspect, remedy, enforce or do anything that is required to be done, the enforcement officer or municipal employee may take action after giving the owner or occupier 24 hours' notice of his or her intent to inspect.

An enforcement officer or employee of a municipality may enter onto land or into buildings at any reasonable time and carry out an inspection, enforcement or action authorized under the Act with notice and, in the case of a building, a warrant. The enforcement officer may also require that anything be produced and copied.

Municipal Liability

Under the new Act, municipal liability is clarified and described in more detail. A municipality that has authority and discretion to do something will not be liable for doing it or for deciding not to do it as long as the action or inaction is done or not done in good faith. Furthermore, council members, council committee members and municipal volunteers will not be liable for damages resulting from any loss or damage as long as they are acting in good faith while performing their duties and exercising their authority under the Act. Except in instances where the municipality fails to carry out a duty or acts with gross negligence, a municipality will not be liable for loss or injury resulting from the following:

- Failure to enforce a bylaw unless it is resulting from a failure to carry out a duty that is imposed by the bylaw
- Damage caused by system frequency, infrequency or absence of inspections except where a bylaw imposes a duty to perform the inspection and the inspection is not performed in accordance with that duty
- Nuisance actions
- Loss or damage sustained in respect to a highway, sidewalk or trail unless the highway, sidewalk or trail is under the jurisdiction of the municipality
- Lack of municipal control
- Reasonable systems of inspection and maintenance
- Loss or damage in respect of a municipal highway, sidewalk or trail caused by installing or failing to install a wall, fence, guardrail, railing, curb, pavement marking, traffic control device, illumination device or barrier
- Injury to a person or damage to property caused by snow, ice, slush, or water of any form or kind on or adjacent to a highway, sidewalk or trail unless the municipality is grossly negligent
- Loss or damage to a person or property in respect of the provision of protective services unless the municipality is grossly negligent