

This Act is Current to August 19, 2015

This Act has "Not in Force" sections. See the [Table of Legislative Changes](#).

## **HEALTH AUTHORITIES ACT**

### **[RSBC 1996] CHAPTER 180**

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## **Part 1 — Interpretation and Provincial Standards**

### **Definitions**

#### **1** In this Act:

**"board"** means a regional health board designated under section 4;

**"designated corporation"** means a corporation designated by regulation under section 21 (2);

**"Provincial standards"** means the Provincial standards established under section 3 (1);

**"public body"** means

- (a) a local government acting under the *Public Health Act*,
- (b) a hospital as defined by section 1 of the *Hospital Act*,
- (c) a board, a regional hospital district board, a district, a regional hospital district, a municipal regional board or a regional board as defined by section 1 of the *Hospital District Act*,
- (d) a Provincial mental health facility, a psychiatric unit or a society as defined by section 1 of the *Mental Health Act* or a mental health clinic or mental health service established by regulations under section 43 of that Act,
- (d.1) the Council of the city, and the city, under the *Vancouver Charter*,

- (e) a government corporation as defined in section 1 of the *Financial Administration Act*, the minister or the government, or
- (f) a designated corporation;

**"region"** means an area of British Columbia designated under section 4 as a region;

**"regional services"** means the health services specified under section 5 (1) (a) (i) for a region;

**"specified services"** means, for a region, the health services, or level or extent of health service, specified under section 3 (2).

## Repealed

2 [Repealed 1997-23-3.]

## Provincial standards

- 3 (1) The minister may, by regulation, establish Provincial standards for the provision of health services.
- (2) The minister may, by regulation, specify a health service, or the level or extent of health service, that must be provided in a region.
- (3) The minister must ensure under subsections (1) and (2) that health services in British Columbia continue to be provided on a predominantly not for profit basis.
- (4) The minister must not act under subsection (1) or (2) in a manner that does not satisfy the criteria described in section 7 of the *Canada Health Act* respecting public administration, comprehensiveness, universality, portability and accessibility.
- (4.1) In exercising the authority under subsection (1) or (2), the minister must have regard to the principles set out in sections 5.2 to 5.7 of the *Medicare Protection Act*.
- (5) Any grant to a board by the government must be made on condition that the board complies with all applicable regulations made under subsections (1) and (2).

## Part 2 — Regional Health Boards

### Regional health boards

- 4 (1) The minister may, by regulation, designate

- (a) a regional health board, and
  - (b) an area of British Columbia that constitutes the region for the board.
- (2) On designation under this section, a board is a corporation consisting of
- (a) the voting members of the board who are appointed by the minister, and
  - (b) if appointed by the minister, a non-voting member of the board who is employed in the ministry of the minister.
- (3) The chair of a board is a member of the board who
- (a) is designated as chair of the board by the minister, or
  - (b) if a chair of the board is not designated under paragraph (a), is elected under the bylaws of the board by the board.
- (4) Members of a board may receive reimbursement for prescribed expenses necessarily incurred while discharging their duties as members of the board.
- (5) [Repealed 1997-23-5.]
- (6) A vacancy in the membership of a board does not impair the power of the remaining members to act.

### **Purposes of a board**

- 5 (1) The purposes of a board are as follows:
- (a) to develop and implement a regional health plan that includes
    - (i) the health services provided in the region, or in a part of the region,
    - (ii) the type, size and location of facilities in the region,
    - (iii) the programs for the delivery of health services provided in the region,
    - (iv) the human resource requirements under the regional health plan, and
    - (v) the making of reports to the minister on the activities of the board in carrying out its purposes;
  - (b) to develop policies, set priorities, prepare and submit budgets to the minister and allocate resources for the delivery of health services, in the region, under the regional health plan;

(c) to administer and allocate grants made by the government for the provision of health services in the region;

(d) to deliver regional services through its employees or to enter into agreements with the government or other public or private bodies for the delivery of those services by those bodies;

(e) [Repealed 2002-61-4.]

(f) to develop and implement regional standards for the delivery of health services in the region;

(g) to monitor, evaluate and comply with Provincial and regional standards and ensure delivery of specified services applicable to the region.

(h) to collaborate, to the extent practicable, with British Columbia Emergency Health Services, the Provincial Health Services Authority and societies that report to the Provincial Health Services Authority, facilities and other health institutions and agencies, municipalities and other organizations and persons in the planning and coordination of

(i) the provision, in British Columbia, of provincially, regionally and locally integrated ambulance services, emergency health services, urgent health services and ancillary health services, as those terms are defined in the *Emergency Health Services Act*, and

(ii) the recruitment and training of emergency medical assistants, within the meaning of the *Emergency Health Services Act*, and other persons to provide the services referred to in subparagraph (i).

(2) In carrying out its purposes, a board must give due regard to the Provincial standards and specified services.

### **Cross-regional operations**

**5.1** (1) Despite section 5 (1) and any regulation made under section 4 (1) (b), the minister may by order permit a board to do any of the following outside the region designated for the board:

(a) provide a health service;

(b) locate a facility;

(c) provide for a program of health service delivery.

(2) If the minister makes an order under subsection (1),

(a) the board is subject to any limits or conditions specified in the order, and

(b) section 5 applies to the health service, facility or program as if the health service, facility or program were located in the region designated for the board.

## Repealed

6–7 [Repealed 2002-61-5.]

## General or special direction

7.1 A board must comply with any general or special direction made by regulation of the minister with respect to the exercise of the powers and the performance of the duties of the board.

## Reporting requirements

7.2 (1) In this section, "**personal information**" and "**stewardship purpose**" have the same meaning as in the *Ministry of Health Act*.

(2) Without limiting section 7.1, if the minister is satisfied that it is reasonably needed to fulfill a stewardship purpose the minister may by order require a board to

(a) report on any matter relevant to the stewardship purpose, and

(b) disclose personal information within a report made under paragraph (a).

(3) A board must comply with an order made under subsection (2) in the manner and form, and within the time, set out in the order.

(4) The minister must make an order made under this section publicly available by posting the order on a website maintained by or on behalf of the ministry of the minister.

## Powers and procedures of a board

8 (1) A board has the powers of a natural person of full capacity for the purposes of carrying out its powers, duties and functions under this Act.

(2) Subject to this Act and the regulations, a board may, by bylaw approved by the minister,

(a) determine its own procedure,

(b) provide for the control and conduct of its meetings,

(c) provide for the election of officers of the board, including the chair and the member to be the acting chair in the absence of the chair,

(d) establish committees and specify the functions and duties of those committees, and

(e) delegate administrative or management duties to its employees.

(3) Meetings of a board are open to the public, but the board may exclude the public from a meeting if the board considers that, in order to protect the interests of a person or the public interest, the desirability of avoiding disclosure of information to be presented outweighs the desirability of public disclosure of the information.

(4) The acquisition or disposal of real or personal property owned or administered by a board may only be done on authority of a bylaw of the board.

### **Resolving differences over priorities**

**9** (1) If an order made or a standard set under this Act by a board conflicts with a regulation of the minister under section 3, the regulation of the minister prevails.

(2) [Repealed 1997-23-11.]

### **Financial administration**

**10** (1) Each board must establish and maintain an accounting system satisfactory to the minister and must, whenever required, render in the form specified by the minister detailed accounts of revenues and expenditures of the corporation for the period or to the day the minister designates.

(2) All books or records of account, documents and other financial records of a board must at all times be open for inspection by the minister or a person designated for that purpose by the minister.

(3) The minister charged with the administration of the *Financial Administration Act* may direct the Comptroller General to examine and report to the Treasury Board on any or all of the financial and accounting operations of a board.

(4) Unless the Auditor General is appointed in accordance with the *Auditor General Act* as the auditor of a board, the board must appoint an auditor who is authorized to be the auditor of a company under sections 205 and

206 of the *Business Corporations Act* to audit the accounts of the board at least once each year.

(4.1) The costs of the audit referred to in subsection (4) must be paid by the board.

(5) After the end of its fiscal year, a board must prepare and submit to the minister, in a form satisfactory to the minister,

(a) a report of the board on its operations for the preceding fiscal year, and

(b) a financial statement showing the assets and liabilities of the board at the end of the preceding fiscal year and the income and expenditures of the board for that year and a statement of changes in financial position of the board for the fiscal year then ended."

(6) The financial statement referred to in subsection (5) must be prepared in accordance with generally accepted accounting principles and with regulations made under section 21 (2) (I).

(7) The *Financial Information Act* applies to each board.

(8) The fiscal year of each board is the period of 12 months beginning on April 1 in each year and ending on March 31 in the next succeeding year.

### **Staff and benefits**

**11** (1) A board may appoint officers and hire employees it considers necessary for the work of the board.

(2) The *Public Service Act* does not apply to a board or to a member, officer or employee of the board unless the Lieutenant Governor in Council, by order, specifies that it applies to the board and to some or all of the members, officers or employees of the board.

(3) A board may engage or retain specialists or consultants that the board considers necessary to carry out its powers, duties and functions of office and may determine their remuneration, and the *Public Service Act* does not apply to the retention, engagement or remuneration of those specialists or consultants.

### **Repealed**

**12-13** [Repealed 1997-23-12.]



## Liability of members

- 14** (1) No action for damages lies or may be brought against a member, officer or employee of a board because of anything done or omitted in good faith
- (a) in the performance or intended performance of any duty under this Act, or
  - (b) in the exercise or intended exercise of any power under this Act.
- (2) Subsection (1) does not absolve a board from vicarious liability for an act or omission for which it would be vicariously liable if this section were not in force.

## Tax exemptions

- 15** (1) Subject to any regulations under section 21 (2) (s), property vested in a board is exempt from taxation under the *Community Charter*, the *Local Government Act*, the *School Act*, the *Taxation (Rural Area) Act* and the *Vancouver Charter* if the property is being used by or on behalf of the board for the purposes of this Act.
- (2) Subsection (1) does not apply if
- (a) the property was subject to taxation under the *Local Government Act*, the *School Act*, the *Taxation (Rural Area) Act* or the *Vancouver Charter* on the coming into force of this Act, and
  - (b) a regulation under section 21 (2) (o) does not apply.
- (3) A board is exempt from taxation under the *Provincial Sales Tax Act* for transactions undertaken for the purposes of this Act between the board and a public body or a board.

## Other property tax exemptions

**15.01** (1) In this section:

**"board of management"** and **"hospital"** have the same meaning as in the *Hospital Act*;

**"hospital facilities"** includes laboratories, laundries and other premises used in conjunction with a hospital;

**"third party"** means a person other than a board.

(2) Subject to any regulations made under section 21 (2) (r), real property wholly owned by a board is exempt from taxation under the *Community Charter*, the *Local Government Act*, the *School Act*, the *Taxation (Rural Area) Act* and the *Vancouver Charter* if

(a) the minister designates the real property by order as being held or occupied, for a period of time specified in the order, for future hospital requirements,

(b) the real property is

(i) part of

(A) a hospital, or

(B) a hospital facility designated by regulation for purposes of this paragraph, and

(ii) occupied and used by a not for profit corporation or organization for a purpose in relation to which an exemption from real property taxation under an Act would apply to that real property if it were owned by that corporation or organization,

(c) the real property is

(i) part of

(A) a hospital, or

(B) a hospital facility designated by regulation for purposes of this paragraph, and

(ii) occupied by a third party who is, on behalf of a board, providing services exclusively for the board,

(d) the real property is

(i) part of

(A) a hospital, or

(B) a hospital facility designated by regulation for purposes of this paragraph, and

(ii) occupied by a third party who is providing prescribed services for the hospital or hospital facility, or

(e) the real property is

(i) part of

(A) a hospital, or

(B) a hospital facility designated by regulation for purposes of this paragraph,

(ii) occupied by a medical practitioner who is

(A) a professor or member of the teaching staff of the medical faculty of the University of British Columbia, and

(B) designated by the board of management of the hospital as "designated staff" for purposes of section 45 of the *Hospital Act*, and

(iii) being used by the medical practitioner for purposes of that medical practitioner's professorial or teaching position described in subparagraph (ii) (A).

(3) The exception in section 15 (2) applies in respect of real property described in subsection (2) of this section.

## Definitions

**15.1** In this section and sections 15.2 and 15.5:

**"designated area"** means an area designated under section 4 (1) (b);

**"new board"** means a board that is created by an amalgamation of 2 or more old boards;

**"old board"** means a board that is replaced by a new board.

## Effect of amalgamation of 2 or more old boards

**15.2** (1) If the designated areas of 2 or more old boards are completely contained within the designated area of a new board, the old boards are amalgamated, as described in this section, on the appointment of the members of the new board by the minister under section 4.

(2) On amalgamation under subsection (1),

(a) all property and rights of the old boards pass to and vest in the new board without further act or deed,

(b) the new board is liable for all debts and obligations of the old boards, and

(c) a reference to one of the old boards in any commercial paper, contract, lease, licence, permit or other instrument or document is deemed to be a reference to the new board.

(3) On amalgamation, for each liability of an old board immediately preceding amalgamation under subsection (1),

(a) the new board is liable in the same manner and to the same extent as the old board was immediately preceding the date of the amalgamation, and

(b) the new board may sue or be sued in its own name or that of the old board in any proceeding relating to the liability.

(4) On amalgamation, for each property or right of an old board immediately preceding amalgamation under subsection (1),

(a) all persons are liable, in the same manner and to the same extent, to the new board as they were to the old board immediately preceding the date of the amalgamation, and

(b) the new board may sue or be sued in its own name or that of the old board in any proceeding relating to the property or right.

## **Repealed**

**15.3–15.4** [Repealed 2002-61-11.]

## **Directions from the Senior Financial Officer**

**15.5** (1) If an amalgamation occurs under section 15.2, the new board or the board, as the case may be, must comply with any direction the Senior Financial Officer of the minister's ministry may give respecting the management or disposal, including disposal to the government with or without compensation, of property, rights, debts or obligations that the new board or the board acquired by the amalgamation.

(2) The Senior Financial Officer of the minister's ministry may only give a direction under subsection (1) if the Senior Financial Officer of the minister's ministry considers this to be necessary in the public interest.

## **Amalgamation with a designated corporation**

**16** (1) A designated corporation and a board may be amalgamated under this section and, on amalgamation, are continued as the board.

(2) An amalgamation under subsection (1) occurs on the date specified in a written consent to the amalgamation given by

(a) the designated corporation,

(b) the board, and

(c) the minister.

(3) The minister must not consent under subsection (2) unless satisfied that the amalgamation is suitable for the purposes of this Act.

(4) A designated corporation must not consent under subsection (2) unless approval for the amalgamation is obtained by special resolution

(a) as defined in section 1 of the *Business Corporations Act*, if the designated corporation is a company as defined in section 1 of the *Business Corporations Act*,

(b) as defined in section 1 of the *Society Act*, if the designated corporation is a society as defined in section 1 of the *Society Act*, or

(c) if paragraphs (a) and (b) do not apply to the designated corporation, as defined by regulation under section 21 (2).

(5) On amalgamation under subsection (1)

(a) the directors and officers of the designated corporation cease to hold office in that corporation,

(b) the members of the designated corporation cease to be members of that corporation,

(c) all property and rights of the designated corporation pass to and vest in the board without further act or deed,

(d) the board is liable for all debts and obligations of the designated corporation, and

(e) a copy of a consent under subsection (2), certified by the minister, is proof that the amalgamation has occurred.

(6) On amalgamation, for each liability of a designated corporation immediately preceding amalgamation under subsection (1)

(a) the board is liable in the same manner and to the same extent as the designated corporation was immediately preceding the date of the amalgamation, and

(b) the board may sue or be sued in its own name or that of the designated corporation in any proceeding relating to the liability.

(7) On amalgamation, for each property or right of a designated corporation immediately preceding amalgamation under subsection (1)

(a) all persons are liable in the same manner and to the same extent to the board respecting the property or right as they were to the designated corporation immediately preceding the date of the amalgamation, and

(b) the board may sue or be sued in its own name or that of the designated corporation in any proceeding relating to the property or right.

(8) On amalgamation, the board must promptly send the Registrar of Companies a notice describing

(a) the name of the designated corporation amalgamated with the board,

(b) the date of the amalgamation, and

(c) any other information the Registrar of Companies may require.

## Repealed

**16.1** [Repealed 2001-41-1.]

## Gift survives on amalgamation

**16.2** (1) A gift by way of *inter vivos* or testamentary act does not fail by reason only of an amalgamation

(a) under this Act, or

(b) under the *Society Act* of a society with a designated corporation.

(2) If property is held in trust for the benefit of a corporation and the corporation is amalgamated with a designated corporation, the property is deemed to be held in trust for the benefit of the resulting designated corporation.

(3) If property is held in trust for the benefit of a designated corporation and the designated corporation is amalgamated with a board, the property is deemed to be held in trust for the benefit of the board.

(4) This section is deemed to have come into force on July 14, 1995, and is retroactive to the extent necessary to give it effect on and after that date.

## Transfer of facilities from the Provincial government

**17** (1) In this section, "**Provincial body**" means, if owned by the government,

(a) a hospital as defined in section 1 of the *Hospital Act*,

(b) a Provincial mental health facility, a psychiatric unit or a society as defined in section 1 of the *Mental Health Act* or a

mental health clinic or mental health service established by regulations under section 43 of that Act, or

(c) a facility or service related to medical or health care.

(2) The Lieutenant Governor in Council may, by order, dispose of a Provincial body, including land and other property of the government or Provincial body used or occupied by the Provincial body and specified in the order, to a board and may in the order specify the conditions for the disposition of the land and other property to the board.

(3) On an order under subsection (2) taking effect,

(a) the land and other property referred to in subsection (2) and described in the order pass to and vest in the board as provided for under that subsection without further act or deed, and

(b) a copy of the order under subsection (2) is proof that the disposition has taken place.

### **Appointment of a public administrator**

**18** (1) The Lieutenant Governor in Council may appoint a public administrator to discharge the powers, duties and functions of a board under this Act if the Lieutenant Governor in Council considers this to be necessary in the public interest.

(2) On the appointment of a public administrator, the members of the board cease to hold office unless otherwise ordered by the Lieutenant Governor in Council.

(3) The Lieutenant Governor in Council may specify

(a) the powers, duties and responsibilities of a public administrator appointed under this section,

(b) the terms and conditions for management of the property and affairs of a board during the transition period preceding the ending of the appointment of a public administrator, or

(c) how a board will operate after the ending of the appointment of a public administrator.

### **Application of other Acts**

**19** (1) Subject to subsection (2), the *Business Corporations Act* does not apply to a board.

(2) The Lieutenant Governor in Council may, by order, declare that provisions of the *Business Corporations Act* or *Society Act* apply to a board.

(3) The Lieutenant Governor in Council may prescribe that provisions of the *Community Care and Assisted Living Act*, *Continuing Care Act*, *Public Health Act*, *Hospital Act*, *Hospital District Act*, *Hospital Insurance Act*, *Mental Health Act* or *Vancouver Charter* respecting a public body apply to a board, and, for the purposes of applying the provisions to the board, all enactments shall be construed as referring to the board in place of the public body for which it substitutes.

(4) Despite subsection (3), the Lieutenant Governor in Council may not prescribe that provisions in sections 24 to 29 of the *Hospital District Act* apply to a board for the purpose of allowing the board to raise money by taxation, levy or requisition.

(5) [Repealed 2008-28-149.]

### Part 3 – Health Sector Labour Relations

#### Definitions

##### 19.1 In this Part:

**"appropriate bargaining unit"** means a bargaining unit referred to in section 19.4 or as determined by the labour relations board under section 19.5;

**"certification"** means a certification issued by the labour relations board to a trade union that is certified as a bargaining agent to represent employees in the health sector;

**"Code"** means the *Labour Relations Code*;

**"community subsector"** includes adult day care, child development centres, community service agencies, drug and alcohol services, mental health services, regional and community administration and any other services that are not included in the facilities subsector;

**"effective date"** means the date this Part comes into force;

**"facilities subsector"** means acute, extended and long term care facilities and diagnostic and treatment centres and includes the Cumberland Regional Hospital Laundry Society (Cumberland Laundry), the Arthritis Society and the Arthritis Society (Victoria Division), the British Columbia Cancer Agency (British Columbia



Cancer Agency, Victoria Cancer Clinic) and the Canadian Blood Services;

**"HEABC"** means the Health Employers Association of British Columbia;

**"health sector"** means all members of HEABC whose employees are unionized and includes their unionized employees, and consists of the community subsector and the facilities subsector;

**"labour relations board"** means the Labour Relations Board established under the Code;

**"nurse"** means a person who is authorized under the *Health Professions Act* to practise in British Columbia as a registered nurse, licensed practical nurse or registered psychiatric nurse and who works in a job for which that authorization is a requirement of the employer or a prerequisite to performing the job as required by statute, regulation or program accreditation;

**"Regulation"** means the Health Sector Labour Relations Regulation, B.C. Reg. 329/95;

**"resident"** means a person who is taking post graduate training in medicine and is registered with the College of Physicians and Surgeons of British Columbia on the register or the temporary register.

### **Exclusion of nurse practitioners**

**19.11** A registered nurse who

- (a) works in a job for which authorization under an enactment to practise in British Columbia as a nurse practitioner is a requirement, and
- (b) performs or provides services as part of the job described in paragraph (a) for which the authorization described in that paragraph is required at law for a registered nurse to perform or provide the services

is excluded from the bargaining unit described in section 19.4 (1) (b).

### **Application of *Labour Relations Code***

**19.2** (1) The Code and the regulations under it apply in respect of matters to which this Part applies, but where there is an inconsistency between this Part and the Code, this Part applies.

(2) Except as specifically provided in this Part, the labour relations board has exclusive jurisdiction to determine a matter arising under this Part.

### **Health Sector Labour Relations Regulation repealed**

**19.3** (1) The Regulation is repealed.

(2) Subject to this Part, the reorganization, integration and reassignment of employees and units required by the Regulation and completed before the effective date continue to apply.

### **Appropriate bargaining units**

**19.4** (1) Subject to section 19.5, the following are the appropriate bargaining units in the health sector:

- (a) residents;
- (b) nurses;
- (c) paramedical professionals;
- (d) health services and support — facilities subsector;
- (e) health services and support — communities subsector.

(2) Appropriate bargaining units may be multi-employer units.

(3) All unionized employees in the health sector must be included in an appropriate bargaining unit.

### **Review of appropriate bargaining units**

**19.5** The minister charged with administration of the Code, on application or on the minister's own motion, and after the investigation considered necessary or advisable, may direct the labour relations board to

- (a) add a bargaining unit as an appropriate bargaining unit, or
- (b) consolidate 2 or more appropriate bargaining units.

### **Review of certifications**

**19.6** (1) The labour relations board may on application or must on direction by the minister charged with the administration of the Code, after the investigation considered necessary or advisable, consider whether continuation of a certification issued to a trade union is appropriate.

(2) If, acting under subsection (1), the labour relations board determines that the continuation of a certification is inappropriate, the labour relations board must cancel that certification.

(3) If a certification has been cancelled under subsection (2), the labour relations board must determine which trade union will represent the employees and may hold a representation vote for that purpose.

(4) When there is a change in trade union representation under this section, the labour relations board has the power necessary to address the consequences of the change for employees.

(5) In making a determination under subsection (2), the labour relations board must cancel a certification if the cancellation will

- (a) improve industrial stability,
- (b) enhance operational efficiency of health sector employers,
- (c) enhance a health sector employer's ability to restructure or reorganize its services or functions, or
- (d) enhance a health sector employer's ability to integrate services or functions.
- (e) [Repealed RS1996-180-19.6 (6).]

(6) [Spent. RS1996-180-19.6 (6).]

## **Repealed**

**19.7–19.8** [Repealed 2002-2-24.]

## **Associations of bargaining agents**

**19.9** (1) A trade union certified as bargaining agent for employees in an appropriate bargaining unit must belong to an association composed of all the trade unions with certifications for appropriate bargaining units of the same description.

(2) On a date determined by the labour relations board, but no later than 6 months after the effective date,

- (a) associations of bargaining agents formed under section 13 of the Regulation cease to operate, and
- (b) new associations of bargaining agents must be formed in relation to the bargaining units referred to in section 19.4 (1) (a) to (c) in accordance with this section.

(3) Before the date determined by the labour relations board under subsection (2), the trade unions in each association referred to in subsection (2) (b) must agree to articles of association that

- (a) are consistent with this Act and the Code,

(b) provide the association with the exclusive jurisdiction to bargain on behalf of the bargaining units for which the association will be certified and to conclude a single collective agreement with respect to those units,

(c) provide the association with the right and obligation to resolve differences among its members with respect to the administration of the collective agreement referred to in paragraph (b), including differences with respect to the right or obligation to belong to a particular trade union within the association,

(d) include provisions with respect to ratification and other collective bargaining processes that reflect the relative membership size of trade union representation in the bargaining units within the association, while ensuring that no member or group of members of a constituent trade union is treated in a manner that is arbitrary, discriminatory or in bad faith by the association,

(e) provide for the future addition into the association of any other trade unions that the labour relations board may certify to represent an appropriate bargaining unit, and

(f) include any other provisions that the labour relations board determines may be necessary in order to ensure that the association can function as a bargaining agent and administer the collective agreement on behalf of the employees within its jurisdiction.

(4) The articles of association referred to in subsection (3) are subject to approval by the labour relations board.

(5) If the articles of association referred to in subsection (3) are not agreed to by the trade unions and approved by the labour relations board before the date established by the labour relations board under subsection (2), the labour relations board must determine the articles of association.

(5.1) On a date determined by the labour relations board, but no later than 6 months after the date on which this subsection comes into force, a new association of bargaining agents must be formed in relation to the bargaining unit referred to in section 19.4 (1) (d).

(5.2) Subsections (3), (4) and (5) apply to the association referred to in subsection (5.1) and to the trade unions certified as bargaining agents for any of the employees in the bargaining unit referred to in section 19.4 (1) (d) and, for that purpose, a reference in subsection (3), (4) or (5) to the

date determined by the labour relations board under subsection (2) is deemed to be a reference to the date determined by the labour relations board under subsection (5.1).

(5.3) Despite subsection (5.2), articles of association for the association referred to in that subsection must provide that all decisions of the association require the approval of at least 2 voting members of the association.

(6) When articles of association have been established under this section, the labour relations board must certify the association for the purposes and procedures set out in subsection (8).

(7) Articles of association are deemed to be decisions of the labour relations board.

(8) Despite section 27 of the Code, an association is certified for

(a) the purposes and procedures under Parts 4 to 7 of the Code, and

(b) other provisions of the Code that the labour relations board determines are necessary or advisable to apply to the association to better achieve the purposes of the Code

and the certifications held by the individual trade unions that are members of the association remain in effect for all other purposes.

### **Existing collective agreement applies**

**19.91** (1) The collective agreements constituted under the *Education and Health Collective Bargaining Assistance Act* continue to apply to the associations established under section 19.9.

(2) In addition, collective agreements existing on the effective date continue to apply to any employee transferred between bargaining units or employers, unless otherwise agreed to by HEABC and the bargaining agent certified under this Part that will represent the employee for the purposes of collective bargaining after the transfer.

(3) Despite any other provision of this Part, unless otherwise agreed to by HEABC and the association referred to in section 19.9 (5.1), each collective agreement existing on the date on which this subsection comes into force that applies to employees in the health services and support bargaining unit continues to apply for the term of the collective agreement and for any extension or continuation under any enactment or under the provisions of the collective agreement.

**Repealed**

**9.911** [Repealed 2002-2-24.]

**Seniority and service recognition**

- 19.92** (1) Seniority and service recognition is portable for any employee who changes bargaining units, bargaining agents or collective agreements as a result of this Part.
- (2) Disputes arising from the operation of subsection (1) must be resolved by the arbitration procedures in Part 8 of the Code.

**Transitional — associations of trade unions**

- 9.921** (1) This section applies despite section 19.7.
- (2) The consolidated certifications issued by the labour relations board to an association of trade unions for each of the appropriate bargaining units referred to in section 19.4 (1) (b) and (c) are continued.
- (3) The articles of association approved by the labour relations board for the associations of trade unions representing the employees in the bargaining units referred to in section 19.4 (1) (b) and (c) are continued.
- (4) On a date determined by the labour relations board but not more than 120 days after this section comes into force, the labour relations board must approve articles of association for the bargaining unit referred to in section 19.4 (1) (d) that are the same as the articles of association in effect for that bargaining unit under the labour relations board decision No. B73/98 and issue a consolidated certification to the association of trade unions representing employees in that bargaining unit.
- (5) On a date determined by the labour relations board but not more than 120 days after this section comes into force, the labour relations board must approve articles of association for the bargaining unit referred to in section 19.4 (1) (e) that are the same as the articles of association in effect for that bargaining unit under the labour relations board decision No. B73/98 and issue a consolidated certification to the association of trade unions representing employees in that bargaining unit.
- (6) Articles of association of an association of trade unions referred to in subsections (3), (4) and (5) are deemed to be a decision of the labour relations board.
- (7) The consolidated certification issued by the labour relations board for an association of trade unions for the former health services and support bargaining unit on October 29, 2001 is cancelled and articles of association

for that association of trade unions approved by the labour relations board for that former bargaining unit on October 26, 2001 are void 120 days after this section comes into force or on an earlier date if the labour relations board has acted under subsection (4) or (5).

### **Transitional – regulations**

**19.93** (1) The Lieutenant Governor in Council may make regulations considered necessary or advisable for the purpose of more effectively bringing into operation this Part and to prevent any transitional difficulties encountered in so doing, and without limitation, the regulations may, for a period the Lieutenant Governor in Council specifies, suspend the operation of a provision of an enactment if that provision would impede the effective operation of this Part.

(2) Unless earlier repealed, a regulation under subsection (1) is repealed one year after it is enacted.

## **Part 4 – Miscellaneous Provisions**

### ***Offence Act***

**20** Section 5 of the *Offence Act* does not apply to this Act or to the regulations made under this Act.

### **Power to make regulations and orders**

**21** (1) The Lieutenant Governor in Council may make regulations referred to in section 41 of the *Interpretation Act*.

(2) Without limiting subsection (1), the Lieutenant Governor in Council may make regulations for the following purposes and respecting the following matters:

- (a) to (c) [Repealed 1997-23-17.]
- (d) the prescribed expenses under section 4 (4);
- (e) to (g) [Repealed 1997-23-17.]
- (h) the designation of corporations;
- (i) the definition of "special resolution" for the purpose of section 16 (4) (c);
- (j) the exemption of a public body from a duty under an enactment to the extent that a board has assumed that duty under this Act;

- (k) the services that may be performed by a board, or the employee or agent of a board, despite a prohibition established under the authority of another enactment;
- (l) the practices or procedures that must be followed by a board in the conduct of its affairs;
- (m) the manner, form and amount of insurance that must be maintained by a board;
- (n) the inclusion of further purposes under section 5 for boards;
- (o) the exemption of boards from the obligation under an enactment to pay a fee or tax;
- (p) the designation of hospital facilities for purposes of section 15.01 (2) (b), (c), (d) or (e);
- (q) to prescribe services for purposes of section 15.01 (2) (d);
- (r) to limit exemptions from property taxation under section 15.01 (2) or to impose conditions on any of those exemptions;
- (s) to limit the exemption from property taxation under section 15 (1) or to impose conditions on that exemption.

(3) The Lieutenant Governor in Council may make regulations

- (a) to facilitate the transition of powers, duties and functions to boards and the bringing into operation and effect of this Act,
- (b) to facilitate an amalgamation under section 16,
- (c) to enable a board to act under an Act referred to in section 19 (3) in place of a public body, and
- (d) to enable a public body to transfer assets or liabilities to a board.

(4) An order made by the Lieutenant Governor in Council or the minister, or a regulation made by the Lieutenant Governor in Council, that may be made under this Act may

- (a) be made with reference to one board, a class of boards or all boards, and
- (b) make different provisions for each board or for different classes of boards.