



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

DANGEROUS GOODS (TRANSPORTATION) ACT

PLEASE NOTE

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

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

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DANGEROUS GOODS (TRANSPORTATION) ACT

Table of Contents

Section	Page
1. Definitions.....	5
2. Where Act does not apply	6
3. General prohibition	6
3.1 Misleading safety marks	6
4. Penalty	7
4.1. Court order	7
4.2 Continuing offence.....	8
5. Use of ticket procedure for minor offences.....	8
6. Defence	8
7. Offences by employee or agent.....	8
8. Officers, etc., of corporation	8
9. Certificate or report of inspector or analyst	8
10. Designation of inspectors	9
11. Powers of inspectors	9
11.1 Warrant required to enter dwelling-place.....	10
11.2 Safety marks and prescribed documents	10
12. Application of the Federal Act	10
13. Regulations	10
14. Agreements respecting enforcement	11
15. Inconsistent provisions.....	11
SCHEDULE	13



DANGEROUS GOODS (TRANSPORTATION) ACT

CHAPTER D-3

1. Definitions

In this Act

- (a) “**analyst**” means any person designated as an analyst pursuant to the *Transportation of Dangerous Goods Act* (Canada) R.S.C. 1985, Chap. T-19;
- (b) “**container**” means an article of transport equipment, including one that is carried on a chassis, that is strong enough to be suitable for repeated use and is designed to facilitate the transportation of goods without intermediate reloading, but does not include a vehicle;
- (c) “**dangerous goods**” means any product substance or organism included by its nature or by the regulations in any of the classes listed in the Schedule;
- (d) “**handling**” means loading, packing or placing, unloading, unpacking or removing or reloading, repacking or replacing dangerous goods in or from any container, packaging or vehicle or at any facility for the purposes of, in the course of or following transportation and includes storing dangerous goods in the course of transportation;
- (e) “**highway**” means a highway as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;
- (f) “**inspector**” means any person designated as an inspector by the Minister under this Act;
- (g) “**Minister**” means the Minister of Transportation, Infrastructure and Energy;
- (h) “**packaging**” means any receptacle or enveloping material used to contain or protect goods, but does not include a container or a vehicle;
- (i) “**prescribed**” means prescribed by the regulations;
- (j) “**regulations**” means the regulations made under this Act;
- (k) “**safety mark**” includes any design, symbol, device, sign, label, placard, letter, word, number, abbreviation or any combination thereof that is to be displayed on dangerous goods, packaging or containers, vehicles or facilities used in the transporting or handling of dangerous goods;
- (l) “**safety requirements**” means requirements for the handling or transporting of dangerous goods, for the reporting of those activities, for the training of persons engaged in those activities and for the inspection of those activities;
- (m) “**safety standards**” means standards regulating the design, construction, equipping, functioning or performance of containers, packaging, vehicles or facilities used in the transporting or handling of dangerous goods;
- (n) “**shipping document**” means any document that accompanies dangerous goods being handled or transported and that describes or contains information relating to the

- goods and, in particular, but without restricting the generality of the foregoing, includes a bill of lading, cargo manifest, shipping order or way-bill;
- (o) “**Transportation of Dangerous Goods Act (Canada)**” means the *Transportation of Dangerous Goods Act (Canada)*, as amended from time to time and includes the regulations made under that Act from time to time;
 - (p) “**vehicle**” means every device in, upon or by which a person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon stationary rails or tracks. *1981, c.9, s.1; 2010, c.31, s.3; 2015, c.28, s.3.*

2. Where Act does not apply

- (1) This Act does not apply to any handling or transportation of dangerous goods in a vehicle
 - (a) while under the sole direction or control of the Minister of National Defence for Canada; or
 - (b) for which a permit is issued under subsection (2) while there is compliance with the permit.

Permit

- (2) The Minister or a person designated by him may issue a permit exempting from the application of this Act the handling or transportation of dangerous goods in a vehicle.

Idem

- (3) A permit issued under subsection (2) is subject to such terms and conditions as the issuer considers appropriate and are contained in the permit.

Person designated

- (4) The Minister may designate in writing any person as a person authorized to issue a permit referred to in subsection (2).

Application to Crown

- (5) This Act is binding on Her Majesty in right of Canada or a province and any agent thereof. *1981, c.9, s.2.*

3. General prohibition

No person shall handle, offer for transport or import any dangerous goods unless

- (a) the person complies with all applicable prescribed safety requirements;
- (b) the goods are accompanied by all applicable prescribed documents; and
- (c) the means of containment and transport comply with all applicable prescribed safety standards and display all applicable prescribed safety marks. *1994, c.10, s.1.*

3.1 Misleading safety marks

No person shall display a prescribed safety mark on a means of containment or transport, or at a facility, if the mark is misleading as to the presence of danger, the nature of any danger or compliance with any prescribed safety standard. *1994, c.10, s.1.*



4. Penalty

- (1) Every person who contravenes section 3 is guilty of an offence and is liable on the first conviction to a fine of not more than \$50,000 and on each subsequent conviction to a fine of not more than \$100,000.

Idem

- (2) Every person who contravenes any provision of this Act or the regulations for which no other penalty is provided by this Act is guilty of an offence and is liable on conviction to a fine of not more than \$10,000.

Time limit

- (3) No proceedings under this section may be instituted after two years from the day the offence was committed. *1981, c.9, s.4.*

4.1. Court order

- (1) Where a person is convicted of an offence, the court may make an order having any or all of the following effects:
- (a) prohibiting the person for a period of not more than one year from engaging in any activity regulated under this Act;
 - (b) requiring the person to provide compensation, whether monetary or otherwise, for any remedial action taken or damage suffered by another person arising out of the commission of the offence;
 - (c) requiring the person to do anything that will assist in repairing any damage to the environment arising out of the commission of the offence; or
 - (d) requiring the person to conduct programs of technical research and investigation into the development and improvement of safety marks, safety requirements and safety standards, or to pay an amount in the manner prescribed to be used to conduct the research.

Order additional to other punishment

- (2) The court may make the order in addition to another punishment imposed on the person and shall have regard to the nature of the offence and the circumstances surrounding its commission.

Monetary limit

- (3) The total value of what the person may be required to do under the clauses (1)(b) to (d) in relation to a single offence must not exceed \$1,000,000.

Where Act does not apply

- (4) If the person contravenes or fails to comply with the order, the person is guilty of
- (a) an offence punishable on summary conviction and liable to a fine not exceeding \$50,000 for a first offence, and not exceeding \$100,000 for each subsequent offence; or
 - (b) an indictable offence and liable to imprisonment for a term not exceeding two years. *1994, c.10, s.2.*

4.2 Continuing offence

Where an offence is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued. *1994, c.10, s.2.*

5. Use of ticket procedure for minor offences

Where the procedure set out in section 10 of the *Summary Proceedings Act R.S.P.E.I. 1988, Cap. S-9* is employed for the prosecution of any offence under this Act, the maximum penalty that may be imposed is a fine of \$1,000. *1981, c.9, s.5.*

6. Defence

It is a defence to a charge under this Act for the accused to establish that he took all reasonable measures to comply with this Act. *1981, c.9, s.6.*

7. Offences by employee or agent

In any prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused whether or not the employee or agent is identified or has been prosecuted for the offence, but it is a defence for the accused to establish that the offence was committed without his knowledge or consent and that he took all reasonable measures to prevent its commission. *1981, c.9, s.7.*

8. Officers, etc., of corporation

Any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of an offence is a party to and guilty of the offence and is liable on conviction to the penalty provided for the offence whether or not the corporation has been prosecuted or convicted. *1981, c.9, s.8.*

9. Certificate or report of inspector or analyst

- (1) Subject to subsections (3) and (4), a certificate or report appearing to have been signed by an inspector or analyst stating that he has made an inspection or analyzed or examined a vehicle, product, substance or organism and stating the results of the inspection, analysis or examination is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report and, in the absence of any evidence to the contrary, is proof of the statements contained in the certificate or report.

Copies or extracts

- (2) Subject to subsections (3) and (4), a copy or an extract made by an inspector under clause 11(2)(b) and appearing to have been certified under his signature as a true copy or extract is admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the copy or extract and, in the absence of any evidence to the contrary, has the same probative force as the original document would have if it had been proved in the ordinary way.

Attendance of inspector or analyst

- (3) The party against whom a certificate or report is produced under subsection (1) or against whom a copy or an extract is produced under subsection (2) may require the attendance of the



inspector or analyst who signed or appears to have signed the certificate, report, copy or extract for the purposes of cross-examination.

Notice

- (4) No certificate, report, copy or extract referred to in subsection (1) or (2) shall be received in evidence unless the party intending to produce it has served on the party against whom it is intended to be produced a notice of such intention together with a duplicate of the certificate, report, copy or extract. *1981, c.9, s.9.*

10. Designation of inspectors

- (1) The Minister may designate any person whom he considers qualified as an inspector for the purposes of this Act.

Inspector to show certificate

- (2) An inspector shall be furnished with a certificate of his designation and, on inspecting any container, packaging or vehicle he shall, if so required, produce the certificate to the person in charge thereof.

Certificate

- (3) Where an inspector inspects or takes a sample of anything under this Act he shall, if the thing is sealed or closed up, provide the person in charge of it with a certificate in prescribed form evidencing the inspection or taking of the sample.

Effect of certificate

- (4) A certificate provided under subsection (3) relieves the person to or for whose benefit it is provided of liability with respect to the inspection or taking of a sample evidenced by the certificate, but does not otherwise exempt that person from compliance with this Act and the regulations. *1981, c.9, s.10.*

11. Powers of inspectors

For the purpose of ensuring compliance with this Act, an inspector may

- (a) subject to section 11.1, at any reasonable time, stop any means of transport and enter and inspect any place or means of transport if the inspector is designated to inspect it and believes on reasonable grounds that on it or in it there are
- (i) dangerous goods being handled, offered for transport or transported,
 - (ii) standardized means of containment,
 - (iii) books, shipping records, emergency response assistance plans or other documents that contain any information relevant to the administration or enforcement of this Act, or
 - (iv) computer systems that may be used to examine any information that is contained in or available to the computer systems and is relevant to the administration or enforcement of this Act;
- (b) open and inspect, or request the opening and inspection of, any means of containment for which the inspector is designated if the inspector believes on reasonable grounds that it is being used to handle or transport dangerous goods or to contain dangerous goods offered for transport;
- (c) for the purpose of analysis, take a reasonable quantity of anything the inspector believes on reasonable grounds to be dangerous goods; and

- (d) examine and make copies of any information contained in any books, shipping records, emergency response plans or other documents, or in any computer systems, that the inspector believes on reasonable grounds contain any information relevant to the administration or enforcement of this Act. *1994, c.10, s.3.*

11.1 Warrant required to enter dwelling-place

- (1) An inspector may not enter a dwelling-place except with the consent of the occupant or under the authority of a warrant.

Authority to issue warrant

- (2) Where on ex parte application a justice as defined in section 2 of the *Criminal Code*, is satisfied by information on oath that
- (a) the conditions for entry described in section 11 exist in relation to a dwelling-place;
 - (b) entry is necessary for any purpose relating to the administration or enforcement of this Act; and
 - (c) entry has been refused or there are reasonable grounds for believing that entry will be refused,

the justice may at any time sign and issue a warrant authorizing the inspector named in the warrant to enter the dwelling-place subject to any conditions that may be specified in the warrant.

Use of force

- (3) The inspector who executes the warrant shall not use force unless the inspector is accompanied by a peace officer and the use of force has been specifically authorized in the warrant. *1994, c.10, s.3.*

11.2 Safety marks and prescribed documents

In any prosecution for an offence, evidence that a means of containment or transport bore a safety mark or was accompanied by a prescribed document is, in the absence of evidence to the contrary, proof of the information shown or indicated by the safety mark or contained in the prescribed document. *1994, c.10, s.3.*

12. Application of the Federal Act

The provisions of sections 14 and 17 to 21 of the *Transportation of Dangerous Goods Act 1992* (Canada) Stats. Can. 1992 c.34 apply with the necessary changes to the handling or transportation of dangerous goods on a highway in the province and an inspector has all the powers conferred by those sections upon an inspector designated under that Act. *1994, c.10, s.4.*

13. Regulations

- (1) The Lieutenant Governor in Council may make regulations
- (a) prescribing products, substances and organisms to be included in the classes listed in the Schedule;
 - (b) establishing divisions, subdivisions and groups of dangerous goods and classes thereof;
 - (c) specifying, for each product, substance and organism prescribed under clause (a) the class listed in the Schedule and the division, subdivision or group into which it falls;



- (d) determining or providing the manner of determining the class listed in the Schedule and the division, subdivision or group into which any dangerous goods not prescribed under clause (a) fall;
- (e) exempting from the application of this Act and the regulations or any provision thereof the handling or transporting of dangerous goods in such quantities or concentrations, in such circumstances, for such purposes or in such vehicles as are specified in the regulations;
- (f) prescribing the manner of identifying any quantities or concentrations of dangerous goods exempted under clause (e);
- (g) prescribing the manner in which a permit under clause 2(1)(b) shall be applied for and issued;
- (h) prescribing safety marks, safety requirements and safety standards of general or particular application;
- (i) prescribing shipping documents and other documents to be used in respect of the handling or transporting of dangerous goods in a vehicle on a highway, the information to be included in such documents and the persons by whom and manner in which such documents are to be used and retained;
- (j) prescribing forms for the purposes of this Act and the regulations;
- (k) amending the Schedule.

Code, etc., may be adopted by reference

- (2) Any regulation made under subsection (1) may adopt by reference, in whole or in part, with such changes as the Lieutenant Governor in Council considers necessary, any code or standard, or any regulation made by the Government of Canada, and may require compliance with any code, standard or regulation that is so adopted. *1981, c.9, s.13.*

14. Agreements respecting enforcement

- (1) The Minister may, with the approval of the Lieutenant Governor in Council, enter into an agreement with the Government of Canada with respect to the administration and enforcement of this Act and the regulations or any provision thereof.

Costs, expenses, revenues and related matters

- (2) An agreement entered into under subsection (1) may provide for any matters necessary for or incidental to the implementation, administration or enforcement agreed on and for the apportionment of any costs, expenses or revenues arising therefrom. *1981, c.9, s.14.*

15. Inconsistent provisions

In the event of any inconsistency between the regulations made under this Act and any orders, rules or regulations made under any other Act, the regulations made under this Act prevail to the extent of the inconsistency. *1981, c.9, s.15.*

SCHEDULE

- Class 1 - Explosives, including explosives within the meaning of the *Explosives Act* (Canada)
- Class 2 - Gases; compressed, deeply refrigerated, liquefied or dissolved under pressure
- Class 3 - Flammable and combustible liquids
- Class 4 - Flammable solids; substances liable to spontaneous combustion; substances that on contact with water emit flammable gases
- Class 5 - Oxidizing substances; organic peroxides
- Class 6 - Poisonous (toxic) and infectious substances
- Class 7 - Radioactive materials and prescribed substances within the meaning of the *Atomic Energy Control Act* (Canada)
- Class 8 - Corrosives
- Class 9 - Miscellaneous products, substances or organisms considered by the Lieutenant Governor in Council to be dangerous to life, health, property or the environment when transported in a vehicle on a highway and prescribed to be included in this class.