



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PROVINCIAL BUILDING CODE ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to December 2, 2015. It is intended for information and reference purposes only.

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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PROVINCIAL BUILDING CODE ACT

CHAPTER P-24

1. Definitions

In this Act

- (a) “**building**” includes a structure or any part of a building or structure;
- (b) “**construction**” includes alteration or repair;
- (c) “**Council**” means the Prince Edward Island Building Standards Council;
- (d) “**demolition**” includes removal;
- (e) “**Director**” means the Director of Building Standards;
- (f) “**inspector**” means a person appointed as an inspector pursuant to section 4;
- (g) “**Minister**” means a Minister of the Crown charged by the Lieutenant Governor in Council with administration of this Act;
- (h) “**National Building Code of Canada**” means the National Building Code issued by the Associate Committee on the National Building Code of the National Research Council of Canada;
- (i) “**permit**” means a permit issued pursuant to this Act. *1975, c.77, s.1; 1983, c.33, s.66.*

2. Regulations, *re* standards and use of materials, equipment and appliances in construction

- (1) The Lieutenant Governor in Council may make such regulations as he considers desirable to regulate and control the use of buildings, to regulate and control the use of materials, equipment and appliances in the construction of buildings, and set standards of construction in the erection of buildings within the Province of Prince Edward Island and without prejudice to the generality of the foregoing may make regulations
 - (a) to control the use of land with respect to location, design and construction of buildings and to prohibit the erection or occupancy of any building unless due provision is made for sanitary facilities, water supply, drainage, fire standards and other works and facilities;
 - (b) to prohibit or restrict any occupation or use of any land or building where considered advisable;
 - (c) declare a specified edition or printing of the National Building Code of Canada and any subsequent amendment, abridgment or revision to be in force in whole or in part with such revisions, revocations or modifications as may be specified in the regulations;
 - (d) exempting from the operation of any or all of the provisions of this Act or the regulations, any person or class of persons or any building;
 - (e) prescribing the use, method of construction or method of demolition of any building by a person;

- (f) prescribing the use, form and content of permits for the use, construction or demolition of any building and providing for the issuance of those permits;
- (g) prescribing standards of qualifications of inspectors;
- (h) prescribing the fees to be charged for the issuing of permits;
- (i) prescribing forms and providing for their use.

Territorial operation of regulations

- (2) The Lieutenant Governor in Council may apply any regulation made pursuant to subsection(1) to all of the province or to any part or parts thereof, including any municipality.

Declaration of invalidity of municipal bylaws

- (3) The Lieutenant Governor in Council may where it considers any law, regulation or bylaw of a municipality to be in conflict with regulations made under this section, declare any such law, regulation or bylaw to be invalid, and any such law, regulation or bylaw is invalid thirty days after the declaration is first published in the Gazette.

Evidence of the Code

- (4) The production of a printed volume or paper purporting to contain the National Building Code of Canada or any amendment, revision or abridgment thereof and as specified in the regulations is evidence of that Code, amendment, revision or abridgment. *1975, c.77, s.2.*

3. Enforcement of Act by municipality

The Lieutenant Governor in Council may authorize any municipality to enforce this Act in the municipality and may revoke such authorization at any time. *1975, c.77, s.3.*

4. Director of building standards

- (1) In accordance with the *Civil Service Act* R.S.P.E.I. 1988, Cap. C-8, there may be appointed a Director of Building Standards, inspectors and such other employees as are required for the purposes of this Act.

Inspectors

- (2) Where, pursuant to section 3, a municipality is authorized to enforce this Act, it may appoint inspectors. *1975, c.77, s.4.*

5. Council established

- (1) There may be constituted a Council called the “Prince Edward Island Building Standards Council” consisting of seven members appointed by the Lieutenant Governor in Council from which one member shall be appointed from each of the following:
 - (a) The Association of Professional Engineers of the Province of Prince Edward Island;
 - (b) The Construction Association of Prince Edward Island;
 - (c) The Architects Association of Prince Edward Island; and
 - (d) The Federation of Prince Edward Island Municipalities.

Advisors

- (2) A representative from the Department of Communities, Land and Environment and from the Department of Transportation, Infrastructure and Energy shall act in an advisory capacity to the Council.



Remuneration of members of Council

- (3) The Lieutenant Governor in Council may prescribe the remuneration to be paid to those members of the Council who are not employees of Her Majesty the Queen in right of the province and may designate from among the members of the Council a chairman and vice-chairman.

Term of appointment

- (4) Any person appointed under subsection (1) shall be appointed for a term of three years and is eligible for reappointment. *1975,c.77,s.5; 1980,c.2,s.3; 1983,c.1,s.6; 1993,c.29,s.4; 1994,c.48,s.15; 1997,c.20,s.3; 2000,c.5,s.3; 2009,c.73,s.2; 2010,c.31,s.3; 2012,c.17,s.2; 2015,c.28,s.3.*

6. Duties and powers of Council

- (1) The Council shall
- (a) advise the Minister on matters concerning this Act and the regulations;
 - (b) provide a liaison between the Minister and the Associate Committee on the National Building Code of the National Research Council, or any other persons or bodies interested in construction standards;
 - (c) perform any duties and functions assigned to it by the Minister;
 - (d) review standards of quality and safety of building and construction materials for sale, and in use, in the province and recommend to the Minister improvements and alterations in such standards, as it may consider advisable.

Annual report by Council

- (2) The Council shall on or before February 1 in each year make, prepare and present a report to the Minister setting forth therein the activities of the Council during the year ending December 31. *1975,c.77,s.6.*

7. Inspectors, powers to enter and search

- (1) An inspector may enter any land or premises at any reasonable time for the purpose of carrying out any of his duties under this Act.

Inspector may be accompanied

- (2) An inspector, in the carrying out of his duties under this Act, may be accompanied by any person who has special or expert knowledge of any matter in question. *1975, c.77, s.7.*

8. Inspection of records, plans and materials

- (1) An inspector for the purpose of carrying out his duties under this Act may
- (a) require the production of any register, certificate, plan or document pertaining in any manner to the use, construction or demolition of a building and may examine and make copies thereof and may require information from any person concerning any matter related to the building; and
 - (b) inspect and take samples of any material, equipment or appliances being used in the construction or demolition of a building.

Requirement to comply with request of inspector

- (2) No person shall neglect or refuse to produce drawings and specifications as required by an inspector under subsection (1), and no person shall furnish an inspector with false

information or neglect or refuse to furnish information required by an inspector in the exercise of his duties under this Act. *1975, c.77, s.8.*

9. Obstruction of inspector

No person shall obstruct an inspector in the exercise of his duties under this Act. *1975, c.77, s.9.*

10. Assist inspector in carrying out duties

Every person shall furnish all necessary means in his power to facilitate any entry, inspection, examination or inquiry by an inspector in the exercise of his powers and duties under this Act. *1975, c.77, s.10.*

11. Order to require compliance with Act

- (1) Where an inspector is of the opinion that any provision of this Act or the regulations is being contravened, he may give to the person whom he believes to be the contravener such order in writing as he considers necessary to ensure compliance with this Act and such order shall specify that it shall be carried out forthwith or before the expiry of such period as is specified therein, and
- (a) where the order specifies that it be carried out forthwith, all work on the building or the part thereof specified in the order, other than such work as may be necessary to carry out the order, shall stop until the order is complied with to the satisfaction of an inspector; or
 - (b) where the order specifies the period within which it is to be carried out and it is not carried out within that period, all work on the project or the part thereof specified in the order, other than such work as is necessary to carry out the order, shall stop until the order is complied with to the satisfaction of an inspector.

Form of orders

- (2) Orders referred to in subsection (1) shall be in such form as may be prescribed by regulation.

Affixing copy of order to building

- (3) Where an inspector gives an order under subsection (1), he may affix a copy thereof to the building or any part thereof, and no person, except the inspector, shall remove the copy unless authorized by an inspector.

Compliance with order required

- (4) Every person to whom an order under this Act is given shall comply with it in accordance with its terms. *1975, c.77, s.11.*

12. Injunction restraining accused

- (1) Where a person fails to comply with an order of an inspector given under section 11, a judge of the Supreme Court may, upon application of the inspector who gave the order and upon five clear days notice to the accused person, grant an injunction restraining the accused person and any other person having knowledge of the injunction from continuing the matter specified in the injunction until the final disposition of the matter, other than such work as is necessary to carry out the inspector's order.



Ex parte proceedings

- (2) An injunction may be made under subsection (1) without notice to any other person for a period not exceeding five days. *1975, c.77, s.12.*

13. Use, construction or demolition of building

- (1) No person shall use, construct or demolish a building except in accordance with the requirements or provisions of this Act, the regulations or a permit.

Order to comply with Act

- (2) Where an inspector finds that the use, construction or demolition of a building is not in accordance with the requirements or provisions of this Act, the regulations or a permit, the inspector shall by notice in writing order the owner of the building or the person responsible for the use, construction or demolition of the building to
- (a) stop the use, construction or demolition of the building in whole or in part as directed by the notice;
 - (b) take measures so that the use, construction or demolition of the building is in accordance with the requirements or provisions of this Act, the regulations or a permit,
 - (c) take such measures, as are specified in the notice to ensure that the use, construction or demolition of the building is in accordance with this Act, the regulations or a permit,

within the time specified by the notice.

Form of orders

- (3) Orders referred to in subsection (2) shall be in such form as may be prescribed by regulation. *1975, c.77, s.13.*

14. Appeal to Council

- (1) Where an owner of a building or the person responsible for the use, construction or demolition of a building
- (a) is of opinion that an order of an inspector made pursuant to section 13 is not proper,
 - (b) is refused a permit; or
 - (c) is of opinion that a condition attached to or contained in a permit is not proper,

that person may appeal to the Council, except in the case of a municipality where an appeal lies to the planning committee, or its equivalent, of the municipality and in the case of an appeal to a planning committee, the powers, conditions and procedures relating to appeals to and from the Council apply with the necessary changes to municipal planning committees or their equivalent.

Commencement of appeal

- (2) An appeal made under subsection (1) must be commenced by serving notice of the appeal upon the Director within fifteen days from the date that the owner of the building or the person responsible for the use, construction or demolition of the building is given the order of the inspector.

Powers of Council on appeal

- (3) Upon considering the matter being appealed the Council may by order confirm, revoke or vary the order of the inspector.

Appeal to Supreme Court

- (4) An appeal lies to the Supreme Court from the order of the Council or of a municipal planning committee, or its equivalent, upon a question of law or a question of jurisdiction and upon hearing the matter the court may confirm, revoke or vary the order of the Council.

Commencement of appeal

- (5) An appeal under subsection (4) shall be commenced within thirty days from the date that the order of the Council is served upon the party appealing.

Effect of appeal on order

- (6) An appeal made pursuant to subsection (1) does not operate as a stay of the order of an inspector except so far as the chairman or a vice-chairman of the Council so directs.

Idem

- (7) An appeal made pursuant to subsection (4) does not operate as a stay of the order of the Council except so far as a judge of the Supreme Court so directs. *1975, c.77, s.14.*

15. Procedure on appeal

For the purposes of any appeal under section 14, four members shall constitute a quorum of the Council. *1975, c.77, s.15.*

16. Powers of enforcing orders

Where a person does not comply with an order directed to him under section 13 or section 14 within the time specified in the order

- (a) the Minister or a person appointed by him; or
- (b) the municipality or a person appointed by it, as the case may be,

may enter upon the land and building and execute the order and recover the expenses of executing the order against the person who failed to comply with the order. *1975, c.77, s.16.*

17. Offence and penalty

- (1) Every person who contravenes any provision of this Act is guilty of an offence under this Act and on summary conviction, where a penalty for the offence is not otherwise provided, is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than twelve months or to both.

Idem

- (2) Every person to whom an order is given under section 11 who fails to comply with it in accordance with its terms is guilty of an offence and on summary conviction is, in addition to the penalties mentioned in subsection (1), liable to a fine of not more than \$100 per day for every day upon which the offence continues after the order was given.

Idem

- (3) Where a corporation is convicted of an offence under subsection (1), the maximum penalty that may be imposed shall be \$5,000.

Fines payable to municipality, when

- (4) Where, pursuant to section 3, a municipality has been authorized to enforce this Act any fines resulting from an offence under this Act which took place within the boundaries of the municipality shall accrue to that municipality.

Compliance with Act may be required

- (5) If a person has been convicted of a violation of a permit or a provision of this Act or the regulations, the Council may by order require the person to comply with the provision with respect to which he was convicted.

Enforcement of orders, powers re

- (6) Where the Council has ordered pursuant to subsection (5) that any matter or thing be done by any person, the Council may in default of its being done by the person
- (a) direct that corrective action be taken in that matter or thing; or
 - (b) order the demolition of a building that is not constructed in accordance with this Act, the regulations or a permit,

at the expense of the person in default, and in case of nonpayment by him of that expense, it may be recovered by action in any court of competent jurisdiction. *1975, c.77, s.17.*

18. Proof of appointment of inspectors

A certificate purporting to be signed by

- (a) the Director, in the case of an inspector appointed under subsection 4(1), or
- (b) the administrator of the municipality, in the case of an inspector appointed under subsection 4(2),

and stating that the person named therein is an inspector shall be admitted in evidence as proof of the appointment of the person named therein as an inspector without proof of the signature or official character of the person appearing to have signed the certificate. *1975, c.77, s.18; 1983, c.33, s.66.*

19. Limitation of liability

Her Majesty the Queen in right of the province or a municipality making, adopting or enforcing regulations under this Act are not liable for the effect of such regulations or enforcement on private or public rights or interests. *1975, c.77, s.19.*

20. Limitation on application of Act

A regulation made pursuant to this Act does not apply to the use, construction, alteration or demolition of a building where the use, construction, alteration or demolition occurred or was commenced before the regulation came into force. *1975, c.77, s.20.*