



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

NORTHUMBERLAND STRAIT CROSSING 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 King's Printer for the province should be consulted to determine the authoritative statement of the law.

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

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

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



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Table of Contents

Section	Page
1. Definitions.....	5
2. Power to enter into Agreement	6
3. Calculated amount.....	7
4. Payment of calculated amount	7
5. Advisory Group	7
6. Functions of Advisory Group.....	8
7. Commencement	8
SCHEDULE	9



NORTHUMBERLAND STRAIT CROSSING ACT

CHAPTER N-3.1

1. Definitions

In this Act

- (a) “**Advisory Group**” means the Advisory Group established under section 5;
- (b) “**Agreement**” means the agreement among the Developer and the Provinces of New Brunswick and Prince Edward Island with respect to the taxation Acts and the trust fund;
- (c) “**calculated amount**” means the amount determined under section 3;
- (d) “**Canada**” means Her Majesty the Queen in right of Canada as represented by the Minister of Public Works;
- (e) “**Canada-Developer agreements**” means the agreements entered into or to be entered into between Canada and the Developer which require the Developer to design, finance and construct the Crossing;
- (f) “**Crossing**” means a bridge crossing the Northumberland Strait and connecting Cape Tormentine, New Brunswick and Port Borden, Prince Edward Island to be constructed pursuant to the Canada-Developer agreements on the site and includes
 - (i) the foundation, piers, abutments, retaining walls, wingwalls, columns, bearings of the bridge, road surface of the bridge and all improvements, machinery, equipment, materials, supplies, tools, appurtenances and fixtures forming part thereof,
 - (ii) all buildings, whether temporary or permanent, erected on the site and all approach roads constructed on the site,
 - (iii) all improvements, machinery, equipment, materials, supplies and tools, used in construction of the bridge, whether temporary or permanent, located on the site, and
 - (iv) all other facilities, appurtenances and fixtures of any nature whatsoever contained on or attaching to the site;
- (g) “**Developer**” means Strait Crossing Development Corporation or such other legal entity with which Canada enters into an agreement for the design, financing and construction of the Crossing;
- (h) “**fuel**” means
 - (i) in relation to New Brunswick, motive fuel as defined under the *Gasoline and Motive Fuel Tax Act* R.S.N.B. 1973, Chap. G-3, and
 - (ii) in relation to Prince Edward Island, diesel oil as defined in the *Gasoline Tax Act* R.S.P.E.I. 1988, Cap. G-3;

- (i) “**gasoline**” means
 - (i) in relation to New Brunswick, gasoline as defined under the *Gasoline and Motive Fuel Tax Act*, and
 - (ii) in relation to Prince Edward Island, gasoline as defined in the *Gasoline Tax Act*;
- (j) “**goods and services**” means
 - (i) in relation to New Brunswick, goods and services as defined under the *Social Services and Education Tax Act*, R.S.N.B. 1973, Chap. S-10, and
 - (ii) in relation to Prince Edward Island, goods as defined in the *Revenue Tax Act* R.S.P.E.I. 1988, Cap. R-14;
- (k) “**lands**” means the lands leased or to be leased by Canada to the Developer in a lease entered into or to be entered into between Canada and the Developer for a term of years, and includes the lands described in Appendix “B” and Appendix “C” to the agreement dated as of December 16, 1992, entered into among Canada, the Province of New Brunswick and the Province of Prince Edward Island with respect to the Crossing;
- (l) “**site**” means the lands on which the construction of the Crossing is carried out;
- (m) “**taxation Acts**” means
 - (i) in relation to New Brunswick, the *Gasoline and Motive Fuel Tax Act*, and the *Social Services and Education Tax Act*, and
 - (ii) in relation to Prince Edward Island, means the *Gasoline Tax Act* and the *Revenue Tax Act*;
- (n) “**trust fund**” means the trust fund into which the calculated amount is to be deposited. *1993, c.17, s.1.*

2. Power to enter into Agreement

- (1) The Minister of Finance may, on behalf of the Province of Prince Edward Island, enter into the Agreement.

Terms of the Agreement

- (2) The Agreement shall
 - (a) provide for the establishment or the designation of a trust fund for the purposes of this Act;
 - (b) require the calculated amount to be paid into the trust fund before commencement of the construction of the Crossing;
 - (c) specify the calculated amount;
 - (d) require detailed design drawings and specifications with respect to the accepted proposal for the construction of the Crossing, and such other information as the Advisory Group may require for determination of the calculated amount, be supplied to the Advisory Group;
 - (e) set out the terms for the management of the trust fund if the trust fund is established pursuant to the Agreement;
 - (f) provide for the payment of amounts out of the trust fund to the Minister of Finance;
 - (g) provide for adjustments of the calculated amount in the event of increases in the cost of construction of the Crossing if the trust fund is established pursuant to the Agreement; and

- (h) provide for the settlement of disputes by the Advisory Group. *1993, c.17, s.2; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

3. Calculated amount

The calculated amount shall be determined by applying to fuel, gasoline, goods and services used or consumed in the construction of the Crossing

- (a) a rate of 11.1 cents per litre on gasoline and propane and 12.6 cents per litre on fuel except propane;
- (b) a rate of 10.5 per cent of the fair value of goods and services,
- subject to the interpretive criteria set out in the Schedule. *1993, c.17, s.3.*

4. Payment of calculated amount

- (1) Where, pursuant to the Agreement, the calculated amount has been paid into the trust fund, the taxation Acts do not apply to
- (a) goods and services; or
- (b) fuel and gasoline,
- that are used or consumed in the construction of the Crossing.

Trust fund

- (2) One-half of the amounts paid out of the trust fund shall be paid to the Minister of Finance as provided for in the Agreement.

Attachment

- (3) Money paid into a trust fund that is established pursuant to the Agreement is not liable to attachment under any enactment.

Cost increase adjustments

- (4) If the trust fund is established pursuant to the Agreement, the calculated amount may be adjusted pursuant to the Agreement in the event of increases in the cost of construction of the Crossing not included in the initial determination of the calculated amount and in making such adjustment the Advisory Group may apply or adopt any or all of any methods used to determine a cost overrun contained in the Canada-Developer agreements. *1993, c.17, s.4; 2010, c.31, s.3; 2012, c.17, s.2; 2015, c.28, s.3.*

5. Advisory Group

- (1) The Provinces of New Brunswick and Prince Edward Island shall establish an Advisory Group consisting of five members.

Members

- (2) Two members of the Advisory Group shall be appointed by the Province of New Brunswick and two members shall be appointed by the Province of Prince Edward Island.

Chairperson

- (3) The chairperson shall be appointed jointly by the Province of New Brunswick and the Province of Prince Edward Island.

Quorum

- (4) A member appointed by each of the Provinces and the chairperson constitute a quorum.

Expenses

- (5) The expenses of the Advisory Group and any other expenses incurred in the administration of this Act shall be paid jointly by the Province of New Brunswick and the Province of Prince Edward Island. *1993, c.17, s.5.*

6. Functions of Advisory Group

The Advisory Group

- (a) shall negotiate the terms of the Agreement on behalf of the Provinces of New Brunswick and Prince Edward Island;
- (b) shall determine the calculated amount pursuant to section 3 by application of the taxation Acts and the Schedule and any adjustment of the calculated amount pursuant to subsection 4(4), and for that purpose may determine the value of any fuel, gasoline, goods and services;
- (c) shall be responsible for the settlement of disputes in accordance with the Agreement;
- (d) shall establish administrative procedures and administer the exemption process;
- (e) may exercise the powers for the administration of the taxation Acts to make or cause to be made an audit of the books of account, records, documents and papers of the Developer or of a contractor, sub-contractor or supplier engaged in the construction of the Crossing;
- (f) may exercise the powers of the Commissioner under the *Revenue Administration Act* R.S.P.E.I. 1988, Cap. R-13.2 and such other powers as are necessary to give effect to the Agreement. *1993, c.17, s.6.*

7. Commencement

- (1) This Act came into force on September 9, 1993 by proclamation of the Lieutenant Governor in Council.

Expiration

- (2) This Act ceases to have effect on such date as the Lieutenant Governor in Council may specify by order published in the Gazette. *1993, c.17, s.7.*

SCHEDULE**INTERPRETIVE CRITERIA TO BE APPLIED BY THE ADVISORY GROUP FOR THE PURPOSES OF UNIFORM APPLICATION OF THE TAXATION ACTS OF NEW BRUNSWICK AND PRINCE EDWARD ISLAND TO THE NORTHUMBERLAND STRAIT CROSSING AND THE RESOLUTION OF DIFFERENCES IN THE APPLICATION OF THOSE ACTS**

1. Gasoline and fuel when used for heating purposes on or in ships, vessels, barges or dredges are to be assessed in accordance with New Brunswick law.
2. Gasoline and fuel when used for other than heating purposes on or in ships, vessels, barges and dredges regardless of size are to be assessed in accordance with Prince Edward Island law.
3. Manufacturing is to be assessed in accordance with New Brunswick law.
4. Manufacturing consumables are not to be assessed as provided in Prince Edward Island law.
5. Pollution control equipment is to be assessed in accordance with New Brunswick law.
6. Transportation charges between Prince Edward Island and New Brunswick are not to form part of the fair value of goods for assessment purposes and, in respect of those charges, the Provinces of New Brunswick and Prince Edward Island shall be deemed to be a single jurisdiction.
7. The temporary use formula contained in Prince Edward Island law is to apply with respect to contractor's equipment during construction season.
8. There is to be no holdback on non-resident contractors.
9. Safety clothing and safety footwear are not to be assessed but Prince Edward Island law applies to other clothing and footwear.
10. Ships, vessels, barges and dredges are to be assessed in accordance with New Brunswick law.
11. Prepared meals are to be assessed in accordance with Prince Edward Island law.
12. Propane used for heating purposes is not to be assessed as provided in Prince Edward Island law.
13. In relation to fuels, gasoline, goods and services not specifically dealt with under this Schedule, subject to the provisions of this Act, New Brunswick law is to apply.