



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

PROCUREMENT OF GOODS 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 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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PROCUREMENT OF GOODS ACT

CHAPTER P-22.1

INTERPRETATION

1. Definitions

(1) In this Act,

- (a) **“buying group”** means a group purchasing organization that obtains the best pricing for its members from suppliers, based on volume;
- (b) **“goods”** means moveable property, such as raw materials, products or equipment, whether in solid, liquid, gaseous or electronic form, but does not include moveable property procured as part of a general construction contract;
- (c) **“jurisdiction”** means
 - (i) the Government of Canada,
 - (ii) the government of a province or territory of Canada, other than Prince Edward Island,
 - (iii) the government of a country other than Canada or of a state or territory of that country, or
 - (iv) a department or agency of a government referred to in subclause (i), (ii) or (iii);
- (d) **“Minister”** means the Minister of Finance and includes a person designated by the Minister to act on his or her behalf for the purposes of this Act and the regulations;
- (e) **“Schedule A entity”** means
 - (i) a department of the Government of Prince Edward Island, established in accordance with the *Public Departments Act* R.S.P.E.I. 1988, Cap. P-29, and
 - (ii) an entity prescribed as a Schedule A entity;
- (f) **“Schedule B entity”** means an entity prescribed as a Schedule B entity.

Actions by non-corporate entities

- (2) In this Act and the regulations, with respect to a Schedule A entity or Schedule B entity that is not a legal person, an action stated to be taken by, or a duty imposed on, the entity is understood to be an action taken by, or duty imposed on, the head of the entity or a person who has been designated by the head of the entity to be responsible for the procurement of goods for the entity. *2016, c.50, s.1.*

ADMINISTRATION

2. Minister responsible

- (1) The Minister is responsible for the administration of this Act and the regulations.

Power to designate

- (2) Except as otherwise provided in this Act or the regulations, the Minister may designate one or more persons to act on the Minister's behalf for the purposes of this Act and the regulations. *2016, c.50, s.2.*

3. Procurement methods and rules

The Minister shall procure goods under this Act using the procurement methods, and in accordance with the procurement rules, set out in the regulations. *2016, c.50, s.3.*

4. Agreement with another jurisdiction

The Minister may enter into an agreement with a jurisdiction that provides for

- (a) the Minister to procure goods for the Minister and the jurisdiction on a joint basis; or
(b) the jurisdiction to procure goods for the jurisdiction and the Minister on a joint basis. *2016, c.50, s.4.*

5. Buying group

The Minister may join a buying group if the Minister is satisfied that the procurement practices of the buying group conform to the spirit and intent of this Act and the regulations. *2016, c.50, s.5.*

SCHEDULE A ENTITIES

6. Procurement for Schedule A entity

- (1) Except as otherwise provided in this Act or the regulations, a Schedule A entity shall obtain goods through the Minister.

Idem

- (2) Subject to this Act and the regulations, the Minister shall procure goods requested by a Schedule A entity.

Procurement methods and rules

- (3) Where a Schedule A entity is permitted under this Act or the regulations to procure goods for itself, the Schedule A entity shall procure those goods using the procurement methods, and in accordance with the procurement rules, set out in the regulations. *2016, c.50, s.6.*

7. Disqualification of supplier

The Minister may disqualify a supplier from providing goods to Schedule A entities, in accordance with the regulations. *2016, c.50, s.7.*

SCHEDULE B ENTITIES

8. Procurement for Schedule B entity

- (1) Except as otherwise provided in this Act or the regulations, a Schedule B entity shall procure goods for itself.

Agreement with Minister

- (2) A Schedule B entity and the Minister may enter into an agreement that provides for
- (a) the Minister to procure goods for the Schedule B entity or for the Schedule B entity and the Minister on a joint basis; or
 - (b) the Schedule B entity to procure goods for the Minister or for the Minister and the Schedule B entity on a joint basis.

Agreement with another Schedule B entity

- (3) A Schedule B entity may enter into an agreement with another Schedule B entity that provides for one of the Schedule B entities to procure goods for the other Schedule B entity or for both Schedule B entities on a joint basis.

Procurement methods and rules

- (4) A Schedule B entity shall procure goods using the procurement methods, and in accordance with the procurement rules, set out in the regulations. *2016,c.50,s.8.*

9. Application for permission to join buying group

- (1) On application by a Schedule B entity, in the form and manner required by the Minister, the Minister may give a Schedule B entity permission, in writing, to join a buying group if the Minister is satisfied that the procurement practices of the buying group conform to the spirit and intent of this Act and the regulations.

Revocation of permission

- (2) The Minister may, in writing, revoke permission given to a Schedule B entity to join a buying group if the Minister has reasonable grounds to believe that the procurement practices of the buying group fail to conform to the spirit and intent of this Act and the regulations. *2016,c.50,s.9.*

10. Disqualification of supplier

A Schedule B entity may disqualify a supplier from providing goods to the Schedule B entity, in accordance with the regulations. *2016,c.50,s.10.*

GENERAL

11. Report re procurement

The Minister may require a Schedule A entity or a Schedule B entity to submit a report to the Minister, in the time and manner the Minister requires, about procurements made by or for the entity, and the report shall contain the information that the Minister requires. *2016,c.50,s.11.*

12. Limit on liability

No action or other proceeding lies or shall be instituted against any of the following persons or entities in relation to anything done or not done, or purported to be done or not done, in good faith under this Act or the regulations by the person or entity:

- (a) the Minister;
- (b) a Schedule A entity;
- (c) a Schedule B entity;
- (d) an officer or employee of a Schedule A entity or a Schedule B entity;
- (e) any other person acting under, or who has acted under, the authority of this Act or the instructions of a person or entity referred to in this section. *2016, c.50, s.12.*

13. Regulations

The Lieutenant Governor in Council may make regulations

- (a) prescribing entities for the purposes of the definition “Schedule A entity”;
- (b) prescribing entities for the purposes of the definition “Schedule B entity”;
- (c) specifying goods that a Schedule A entity is not required to obtain through the Minister;
- (d) specifying circumstances in which, and thresholds under which, a Schedule A entity is not required to obtain goods through the Minister;
- (e) prescribing the procurement methods to be used by the Minister, a Schedule A entity or a Schedule B entity;
- (f) prescribing rules concerning procurement methods, including specifying when and how they are to be used and the applicable thresholds;
- (g) exempting a Schedule B entity from the application of the rules concerning procurement methods, and specifying the circumstances in which, and the goods for which, a Schedule B entity is exempt from the application of the rules;
- (h) respecting competitive bidding processes, including
 - (i) solicitation for bids,
 - (ii) bid submissions,
 - (iii) the receipt, opening and evaluation of bid submissions, and
 - (iv) awarding a procurement contract;
- (i) respecting alternative procurement methods;
- (j) prescribing the procurement methods to be used by the Minister or a Schedule B entity in urgent and emergency situations, including specifying when and how they are to be used;
- (k) prescribing circumstances in which, or reasons for which, the Minister or a Schedule B entity may give preferential treatment to a supplier and the manner in which, and the method by which, preferential treatment may be given to a supplier;
- (l) respecting the disqualification of a supplier, including
 - (i) the circumstances in which, or reasons for which, the Minister or a Schedule B entity may disqualify a supplier,
 - (ii) the scope of a disqualification, and
 - (iii) the process the Minister or a Schedule B entity shall follow to disqualify a supplier;
- (m) respecting the reinstatement of a supplier, including

- (i) the circumstances in which, or reasons for which, the Minister or a Schedule B entity may reinstate a supplier, and
- (ii) the process the Minister or a Schedule B entity shall follow to reinstate a supplier;
- (n) prescribing the measures the Minister or a Schedule B entity may take when a supplier becomes disqualified from providing goods to Schedule A entities or to the Schedule B entity, as the case may be, during the performance of a procurement agreement;
- (o) exempting goods from the application of this Act, including thresholds, if any, that apply to the exemptions;
- (p) defining any word or expression used in but not defined in this Act;
- (q) respecting any other matter or thing that is considered necessary for carrying out the purposes of this Act. *2016, c.50, s.13.*

TRANSITIONAL PROVISIONS, REPEAL AND COMMENCEMENT

14. **Transitional provision**

Where a procurement process or agreement is commenced but not completed before this section comes into force, the *Public Purchasing Act* R.S.P.E.I. 1988, Cap. P-32, and its regulations shall apply to that process or agreement until it is completed, as if this Act had not come into force. *2016, c.50, s.14.*

15. **Repeal of *Public Purchasing Act***

The *Public Purchasing Act* R.S.P.E.I. 1988, Cap. P-32, is repealed. *2016, c.50, s.15.*