

Country Guide

Canada

New Brunswick

Prepared by

McInnes Cooper



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PRESENTS

Guide to Doing Business In New Brunswick

Updated for 2025

“ BEST IN BUSINESS. LEADERS IN LAW. ”

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About Us

McInnes Cooper is a solutions-driven Canadian law firm. Providing strategic counsel to industry-leading clients from Canada and abroad, the firm has continued to thrive for over 160 years through its relentless focus on client success, talent engagement and innovation.

A certified Great Place to Work™, McInnes Cooper has an integrated team of over 220 lawyers and 250 professional resources and offers clients a full range of legal services across seven offices in:

- Charlottetown, Prince Edward Island.
- Fredericton, New Brunswick.
- Halifax, Nova Scotia.
- Moncton, New Brunswick.
- Saint John, New Brunswick.
- St. John's, Newfoundland and Labrador.
- Sydney, Nova Scotia.

MC+ extends the firm's offerings to include:

- MC Advisory, an affiliated business offering complementary advisory services.
- MC Training, fixed fee training workshops to help your business meet your legal responsibilities with confidence.
- MC Innovation, innovative solutions to capitalize on opportunities to enhance our operational efficiencies, productivity enhancements and service delivery to our clients.



Our Province



KIM HUGHES

New Brunswick is one of the four Atlantic Canadian provinces. New Brunswick is Canada's only officially bilingual province, reflecting its large number of francophone residents and making it an attractive location for businesses to access a pool of bilingual workers. Situated on the Bay of Fundy coast, which produces the world's highest tides, the [energy and natural resources](#) sector has historically been and continues to be a key driver of New Brunswick's economy, including:

[OIL REFINING](#)

One of only eight oil refineries in Canada is located in Saint John, New Brunswick.

[PORTS](#)

Two ports are situated in New Brunswick – Belledune and Saint John - making it a key East Coast shipping hub.

[RENEWABLE ENERGY](#)

New Brunswick is home to onshore wind and green hydrogen developments and to nuclear energy sources and projects, including [small modular reactors \(SMRs\)](#).

Our Legal System



CHRIS KEIRSTEAD

New Brunswick has a common law legal system. The laws that apply in New Brunswick comprise the Canadian Constitution, federal and New Brunswick statutes and regulations and the common (i.e. judge-made) law.

JURISDICTION. The Canadian Constitution establishes whether a matter or an entity is governed by federal or provincial law. Sectors that fall within federal jurisdiction include:

- Banking
- Broadcasting
- Telecommunications
- Inter-provincial Transportation
- Patents and trademarks
- Foreign investment

Generally, matters and organizations not within these sectors fall within provincial jurisdiction. It should be noted that entities governed by federal law must comply with provincial laws that do not conflict with applicable federal laws. The Canadian *Charter of Rights and Freedoms* is part of the Canadian Constitution; it generally applies only to governmental actors when dealing with individuals and organizations.

COURTS. The New Brunswick Court of King's Bench is the main civil trial court in New Brunswick. The Court hears both civil and major criminal cases. The Provincial Court is the principal criminal court. It deals with most criminal and statutory offences. The highest court in the province is the Court of Appeal, which hears appeals from decisions of the New Brunswick Court of King's Bench and some administrative tribunals. The highest court in Canada is the Supreme Court of Canada, which hears both civil and criminal appeals from the Court of Appeal. Most cases require leave (permission) from the Supreme Court of Canada before it will hear the appeal. The Federal Court typically deals with matters under federal legislative jurisdiction such as claims involving shipping and navigation, patents and trademarks, income tax, the judicial review of decisions of many tribunals constituted under federal law and claims against the federal government. The Federal Court of Appeal hears appeals from the Federal Court and applications for judicial review from some federal tribunals. The Supreme Court of Canada hears appeals from the Federal Court of Appeal with leave.

Foreign Investment



MICHAEL SIMMS

The federal [Investment Canada Act](#) regulates foreign investment in New Brunswick.

APPLICATION. The Act applies to non-Canadians, including persons who are not:

- Canadian citizens.
- Permanent Residents as defined in the [Immigration and Refugee Protection Act](#) who have been ordinarily resident in Canada for not more than one year after the time at which they first became eligible to apply for Canadian citizenship.
- An entity that's controlled or beneficially owned by Canadian citizens.

NOTIFICATION. The [Investment Canada Act](#) requires non-Canadians to file a notification within 30 days of the date of acquisition where they both:

- Commence a new business activity in Canada.
- Acquire control of an existing Canadian business.

However, notification is not required where the acquisition is a “reviewable transaction” under the Act.

REVIEWABLE TRANSACTIONS. Certain acquisitions are subject to review by Industry Canada. An acquisition is reviewable when the direct or indirect acquisition of a Canadian business with which has assets valued at or in excess of the thresholds established. The thresholds are different for direct and indirect acquisition and for World Trade Organization (WTO) members and for non-WTO members.

ADDITIONAL REQUIREMENTS. Certain industries are subject to additional regulations and restrictions.

CURRENCY. The Canadian dollar isn't subject to exchange controls. The federal [Cross-Border Currency and Monetary Instruments Regulations](#) require a visitor to declare all currency and monetary instruments totaling a specified threshold that changes periodically.

Business Structure



ADEL GONZCI

There are three main ways to structure a business in New Brunswick, each with its own pros and cons: a sole proprietorship, a partnership (general or limited liability) and a corporation.

CORPORATE STRUCTURE. A corporation is a legal entity separate from its owners and with all the rights, powers and privileges of a natural person. The shareholders have no personal liability for the corporation's obligations unless there is an agreement to the contrary. New Brunswick has passed amendments to its Business Corporations Act to allow for formation of an unlimited liability corporation, in which shareholders have unlimited liability for any liability, act or default of the corporation. However, as of November 2024, these amendments have not yet taken effect.

INCORPORATION. When incorporating a New Brunswick corporation:

- **REGISTRATION.** You must prepare and register Articles of Incorporation and the prescribed Notice of Registered Office and Notice of Directors with the New Brunswick Corporate Registry. After incorporation, the corporation must complete annual reports and filings and pay certain prescribed fees to maintain its corporate status.
- **SHARE CAPITAL.** With some exceptions, there are generally no minimum or maximum share capital requirements in New Brunswick. Shares in a New Brunswick corporation can be created with or without a par value.
- **SHAREHOLDER RIGHTS.** You can restrict shareholders' rights by:
 - A manner permitted in the New Brunswick Business Corporations Act.
 - The corporation's Articles of Incorporation.
 - Contract in a shareholders' agreement. A shareholders' agreement addressing the shareholders' rights and obligations isn't required in New Brunswick but is highly recommended when forming a company with multiple shareholders.

Shareholders have three inherent rights; you must assign each of these rights to at least one class of shares – but one class need not have all three:

- The right to vote.
- The right to receive any declared dividends.
- The right to receive the corporation's remaining assets if the corporation is dissolved.

- **NON-CANADIAN SHAREHOLDERS.** There are no restrictions on non-Canadian shareholders in New Brunswick corporations; however, please see the “Foreign Investment” section above.
- **DIRECTORS.** A New Brunswick corporation is not required to have Canadian resident directors.
- **DIRECTORS’ LIABILITY.** While directors aren’t generally personally liable for the corporation’s acts or omissions, they can be held liable for them in certain circumstances as well as for their personal actions, including:
 - For wages, other payments to employees and unremitted employee wage source deductions such as CPP and EI.
 - For the company’s unremitted GST / HST.
 - Under environmental or industry-specific legislation.
 - Under personal guarantees.
 - For certain occupational health and safety violations.
 - For criminal activities while carrying out their duties.
 - For breach of their fiduciary duty to the corporation.
 - For breach of the standard of care in carrying out their duties.
 - For a tort (such as negligence) while carrying out their duties.
- **PARENT CORPORATION LIABILITY.** If a subsidiary is incorporated in New Brunswick, it provides limited liability for the parent corporation, protecting it from the subsidiary’s debts and obligations. This is as opposed to a branch office, which is an extension of the parent corporation and not a separate legal entity.

REGISTRATION FORMALITIES. Regardless of the business structure, there are formalities to registering your business in New Brunswick:

- **BUSINESS NAME.** Once you’ve chosen a business (or corporate) name, you will need to conduct a name search to ensure another entity isn’t already using the name and obtain approval of the name.
- **RECOGNIZED AGENT.** Except sole proprietors, you must appoint a recognized agent to receive the business’s official correspondence and service of legal proceedings on the business’s behalf and act as a contact for the New Brunswick Corporate Registry. The recognized agent must be a New Brunswick resident and is often a representative of a local law firm.

TAX REGISTRATIONS. Businesses operating in New Brunswick must comply with certain tax registration requirements, including:

- **CANADA REVENUE AGENCY (CRA) REGISTRATION.** Upon incorporating a company, you must register with the Canada Revenue Agency to obtain a Business Number (BN) and open accounts for corporate income tax, payroll deductions, Goods and Services Tax/Harmonized Sales Tax (GST/HST) and import/export activities, as applicable.
- **PROVINCIAL REGISTRATIONS.** If the entity is subject to provincial sales tax, it must also register for a tax account with the New Brunswick government.

PERMITS & LICENSES. Regardless of structure, depending on the sector in which you're doing business and the type of activities you will be conducting in the province, you might require various federal and/or provincial permits and licenses to ensure compliance with environmental, safety and other regulatory requirements.



Employment Relations



DOMINIQUE FONTAINE

New Brunswick employers are provincially regulated unless they operate in a federally regulated sector, in which case they are likely to be federally regulated. Whether an employer is provincially or federally regulated depends on the nature of its operations. Employment relations are distinct from labour relations; employment relations refers to the direct relationship between an employer and employees who are not represented by a union; labour relations refers to the relationship between an employer and a union.

EMPLOYMENT-RELATED LEGISLATION

- **MINIMUM EMPLOYMENT STANDARDS.** Legislation establishes minimum standards for fundamental employee rights, to which employers must adhere. If you're a provincially regulated employer, the [New Brunswick Employment Standards Act](#) applies. If you're a federally regulated employer, the [Canada Labour Code](#) applies. Some of these statutorily guaranteed employee rights are:
 - [Minimum Wages](#), which typically change at least annually.
 - Hours of Work and Overtime Pay.
 - Statutory Leaves, such as maternity and [parental](#) leaves.
 - Vacation, vacation pay, and holidays.
 - Equal pay protections.
 - Protection and standardized frequency of pay.
 - Minimum termination notice.
- **HUMAN RIGHTS.** If you're a provincially regulated employer, the [New Brunswick Human Rights Act](#) applies. If you're a federally regulated employer, the [Canadian Human Rights Act](#) has similar provisions. This human rights legislation prohibits employers from discriminating against employees, prospective hires, and customers/clients on certain enumerated grounds. Both also impose a duty to accommodate protected employees or job candidates. The Acts apply at the hiring stage, during the employment relationship, and at the employment termination stages of the employment relationship.
- **WORKERS' COMPENSATION.** Depending on your industry and number of employees in New Brunswick, you might need to register with [WorksafeNB](#) and maintain workplace and insurance coverage for your employees under the [New Brunswick Workers' Compensation Act](#), a mandatory workplace accident insurance regime.

- **OCCUPATIONAL HEALTH & SAFETY.** Canada and each Canadian province, including New Brunswick, treat occupational health and safety very seriously. Occupational health and safety legislation in Canada is based on an internal responsibility system in which all workplace participants play a role and share responsibility in ensuring a healthy and safe workplace. In general, all employers owe a duty to employees, as well as other persons at or near the workplace, to ensure a safe workplace. It's important that you understand and comply with your occupational health and safety obligations. Provincially regulated employers must comply with the [New Brunswick Occupational Health and Safety Act](#) and the applicable regulations; federally regulated employers must comply with the [Canada Labour Code](#) and the applicable regulations. Failure to do so exposes both the corporation and its [directors, officers and supervisors personally](#) to:
 - Regulatory penalties (fines and/or jail time).
 - [Criminal Code of Canada](#) penalties (fines and/or jail time).
- **COMPETITION ACT.** The federal Competition Act applies to both provincially and federally regulated employers to prohibit [employee wage-fixing and certain no-poaching agreements](#).

COMMON LAW. In addition to legislated rights and obligations, the common law implies certain rights and obligations into the employment relationship. The common law is developed through jurisprudence. Importantly, the common law implies in every employment contract (whether written or oral) the right of employees to receive reasonable notice of termination without cause from their employer. This right is implied in every employment contract, unless explicitly waived in writing in a manner that is compliant with the minimum employment standards legislation (in New Brunswick, the *New Brunswick Employment Standards Act*). When an employer dismisses an employee without cause, and the employee has not waived their entitlement to reasonable notice, the “reasonable” notice to which the employee is entitled will depend on various factors, including age, length of service, character of the employment, and availability of appropriate similar work at similar compensation. Reasonable notice is generally more generous than the statutory minimums in employment standards legislation and can be a significant source of liability for an employer. The common law also imposes on some employees, particularly those in key or fiduciary positions, duties of good faith, loyalty and fidelity on that employee.

EMPLOYMENT CONTRACT. A written employment contract is not mandatory in New Brunswick but is highly recommended. Every employer has an employment contract with every employee – even when there’s “nothing in writing”. The issue is often, however, ascertaining its terms. There are many benefits to a well-drafted and implemented [written employment contract](#), the ultimate benefit being fewer disputes and a reduction in your associated time and cost if there are disputes. Properly implementing the employment contract is just as important as getting the terms right. The employment terms must be set at the time of hiring/start of employment: an employer can’t unilaterally impose new employment conditions that fundamentally change the employment relationship during the employment unless it gives the employee appropriate notice or new consideration. If the employment contract isn’t properly implemented, a court could find it unenforceable and you will be unable to rely on its terms. Significantly, a properly drafted and implemented written employment contract allows the employer and employee to specify a notice period for termination without cause and to otherwise waive entitlement to common law reasonable notice. Provided this contractual notice provision is clear and complies with employment standards legislation (and any other applicable legislation), it will govern the employee’s entitlement to notice (or pay-in-lieu) in the event of employment termination without cause.

TERMINATING EMPLOYMENT RELATIONSHIPS. There is no “employment at will” in Canada. Employers generally do have the right to terminate an employee’s indefinite term of employment (as opposed to fixed term employment) without cause provided doing so doesn’t breach any relevant legislation (such as the

applicable human rights legislation) and the employer provides the employee with the notice to which they are entitled:

- Employers must comply with the statutory minimum notice period for individual and for group terminations based on employees' years of service with the employer. Provincially regulated employers must comply with the [New Brunswick Employment Standards Act](#). Federally regulated employers must comply with the *Canada Labour Code*.
- Employees might also be entitled to a contractual termination notice period if their employment contract includes an [enforceable termination clause](#). However, it's important to understand that courts scrutinize contractual termination clauses very closely and drafting an enforceable clause is highly technical.
- If there is no enforceable contractual termination clause, employees are also entitled to common law reasonable notice of termination as set out above.

LAYOFFS. In Canada, employers don't generally have the legal right to temporarily layoff non-unionized employees unless that right is expressly included or implied in the employment contract. Employment standards legislation often limits permissible periods of lay-off, setting out when a lay-off will be deemed to be a termination or when a lay-off will require the employer to provide notice (or pay-in-lieu of notice) to the employee. In New Brunswick, the employer must provide notice under the New Brunswick Employment Standards Act (in the same amount as though the employee were dismissed without cause) for any lay-off exceeding six consecutive days. At common law, the employee is often entitled to treat a temporary layoff as an employment termination without cause and to sue the employer for damages for breach of the employment contract. Any right to temporarily layoff unionized employees is typically negotiated in the relevant collective bargaining agreement.

FOREIGN EMPLOYEES.



MORGANNE FOLEY

if you're looking to relocate existing employees from other of your offices to new brunswick or to hire new foreign workers for your new brunswick operations, you must navigate canada's immigration system. immigration in canada is federally regulated and there are multiple federal immigration programs and streams within each. in addition, provincial nominee programs (pnps), allowing provinces to nominate individuals for permanent residence based on their ability to contribute to the local economy, also offer immigration options for skilled workers and business immigrants. foreign employees require a work permit to legally work in canada. in many cases, you will need to obtain a labour market impact assessment (lmia) to demonstrate that there are no qualified canadian workers available for the position to obtain the required work permit. processing times and fees for work permits vary widely depending on where the application is made and the particular immigration program. however, there are many immigration paths and exceptions to the lmia requirement. because immigration programs are constantly changing, with existing programs being paused, modified or ended and new ones introduced, it's important to take the time to investigate and choose the one that best fits your needs to ensure you can access the talent you require on a timely basis. it's also important to note that canadian employers of foreign workers have ongoing [compliance obligations](#), and there is a strong compliance enforcement regime.

LABOUR RELATIONS. If you're a provincially regulated employer, the [New Brunswick Industrial Relations Act](#) regulates the relationship between you and your unionized employees, from the process of unionization and certification through the post-unionization relationship (including the collective bargaining process and grievance resolution) to any termination of bargaining rights. If you're a federally regulated employer, the [Canada Labour Code](#) regulates the relationship.

Business Taxation



MICHAEL COSTELLO

New Brunswick businesses are subject to federal, provincial, and municipal taxation laws.

CORPORATE INCOME TAX. New Brunswick corporations are subject to federal and provincial corporate income taxes. Unless otherwise exempted by a Canadian tax treaty, New Brunswick corporations are taxed based on their worldwide income. You must file annual corporate income tax returns with the Canada Revenue Agency.

SALES TAXES. New Brunswick corporations must also collect and remit the Harmonized Sales Tax (HST) on their taxable sales within Canada and certain imports into Canada in accordance with the federal *Excise Tax Act*. The HST includes a federal Goods and Services Tax (GST) and a provincial tax portion. The federal GST portion is 5% and the New Brunswick provincial portion is 10% for an HST rate of 15% (in 2025).

PROPERTY TAXES. There are two levels of property tax in New Brunswick, provincial and municipal, levied on real property, such as land and buildings. There are different rates based on the property classification (residential or non-residential) and a reduced rate for a taxpayer's primary principal residence. You must meet your property tax obligations on an annual basis.

EMPLOYMENT TAXATION & SOCIAL SECURITY. You're responsible to deduct income tax, Canada Pension Plan (CPP) contributions and Employment Insurance (EI) premiums from your Canadian employees' pay and remit these amounts to the Canada Revenue Agency (CRA). In addition, you are required to make CPP and EI contributions on behalf of your Canadian employees.

- **INCOME TAX.** Canadian taxation is based on tax residency as determined under both federal statute and New Brunswick law. The federal Income Tax Act deems an individual to be resident in Canada if they have been in Canada for an aggregate of 183 days or more in the calendar year. New Brunswick law determines New Brunswick residency based on a highly factual test: where the individual had the most significant residential ties on December 31 of the relevant taxation year. In addition, individuals may have dual provincial residency where the individual will be considered resident only in the province where they have the most substantial connection for the purpose of computing provincial tax payable. A Canadian tax resident is taxed on their worldwide income and is subject to both federal and provincial income taxes. Both federal and provincial income tax rates are incremental and are based on the tax resident's taxable income. A non-tax resident is taxed on their New Brunswick sourced income at the same federal rates as a Canadian tax resident but will also pay an additional federal tax in lieu of provincial taxes.
- **CANADA PENSION PLAN (CPP).** With few exceptions, Canadian employees over 18 years of age earning more than the threshold set in the Canada Pension Plan must contribute to the Canada Pension Plan (CPP). The employer is responsible to deduct the employee's contribution from their pay and to remit it to the CRA. In addition, the employer is responsible for making and remitting its own CPP contributions for each employee.

Self-employed individuals are responsible to remit both the employee and the employer contributions. The contribution amount for an employee is based on the employee's annual income and is payable only on earnings between a minimum and a maximum amount and is split equally between the employee and the employer. The contribution amount for a self-employed individual is based on their net business income.

- **EMPLOYMENT INSURANCE (EI).** Employees must contribute a percentage of their income to an annual maximum amount to EI. The employer is responsible to deduct the employee's contribution from their pay and remit it.

TAX RESIDENCY FOR BUSINESS ENTITIES. Under the [New Brunswick Income Tax Act](#), every corporation that maintains a permanent establishment in New Brunswick at any time in a taxation year must pay tax for the year. A corporation is generally deemed resident in New Brunswick if its central management and control is in New Brunswick. Corporations operating in New Brunswick must also pay federal income tax on their taxable income.

BUSINESS ENTITIES TAX RATES. Corporations resident in Canada carrying on an active business in New Brunswick are taxed as follows (in 2025):

Corporate Tax Rates	NB only	Federal and NB
Canadian-controlled private corporation (up to \$500k active business income)	2.5%	11.5%
General Corporate	14%	29%
Manufacturing and processing	14%	29%

NON-TAX RESIDENT BUSINESS VEHICLES. A non-resident corporation must pay tax on all income earned in New Brunswick but different tax rates may apply. However, treaty exemptions may be available, particularly if the non-resident corporation does not have a permanent establishment in Canada.

TAXATION OF DIVIDENDS, INTEREST & ROYALTIES. Dividends, interest and royalties are taxed as follows:

- **DIVIDENDS PAID & RECEIVED.** A withholding tax (in 2025, 25%) applies to dividends paid by a Canadian corporation to a non-resident shareholder, though the rate may be reduced to a lower rate for residents of countries with which Canada has a tax treaty. Dividends received by resident Canadian shareholders from foreign corporations are also subject to tax in Canada depending on the source of the dividend and other factors.
- **INTEREST PAID.** There is no withholding tax on interest paid by a Canadian corporation to non-resident, arms-length shareholders except respecting specific types of participating debt. A withholding tax (in 2025, 25%) applies to other interest payments made to non-resident shareholders, but may be reduced, even to nil, under a tax treaty.

- **INTELLECTUAL PROPERTY (IP) ROYALTIES PAID.** A withholding tax (in 2025, 25%) applies to payments of certain IP royalties to non-residents but could be at a lower rate to residents of countries with which Canada has a tax treaty.

THIN CAPITALIZATION RULES. The federal *Income Tax Act* governs thin capitalization rules. The rules limit interest deductibility on outstanding indebtedness owed to certain non-residents to the extent the debt-equity ratio exceeds 1.5:1 (in 2025).

FOREIGN SUBSIDIARIES. The federal *Income Tax Act* governs the taxation of foreign affiliates. Generally, a taxpayer resident in Canada must include in their income for a taxation year their share of any foreign accrual property income earned by a controlled foreign affiliate in the year, whether or not the controlled foreign affiliate actually distributed any amount to its shareholders. Different rules apply to income from an active business carried on by a foreign affiliate.

TRANSFER PRICING RULES. The federal *Income Tax Act* sets out transfer pricing rules. Canadian taxpayers must report taxable income arising from transactions conducted with related non-residents as if they were at arm's length during the tax year.

IMPORTS.



ROBERT MACGREGOR

Goods imported to Canada are taxed under the federal [Excise Tax Act](#). The importer of record is required to pay Goods and Services Tax (GST) to Canada Border Services Agency at a rate of 5% (as of 2025) on the importation of goods to Canada. The Canadian recipient of goods imported to Canada may be entitled to claim an input tax credit in the amount of the GST paid at the Canadian border. In addition, depending on the Canadian province where goods are destined, a Canadian recipient of imported goods is required to self-assess and pay GST plus any provincial amount of tax on those goods (in New Brunswick, the HST at a rate of 15% as of 2025). It's important to note that HST will apply regardless of whether GST was paid on the same goods at the time of importation; therefore, it's possible that GST is paid twice on the same goods (absent any claimed input tax credits).

INPUT TAX CREDITS. These credits allow businesses to recover the HST paid on purchases and expenses related to their commercial activities. The amount of Input Tax Credits (ITCs) a business can claim is generally equal to the HST paid on eligible purchases and expenses. In order to receive ITCs, the business must be an HST registrant and maintain accurate records to support the ITCs claim, including invoices and receipts showing the HST paid.

Competition Law



MICHAEL SIMMS

The federal [Competition Act](#), through the Competition Bureau and the Competition Tribunal, regulates competition law matters, including: employment-related restrictive covenants; conspiracies to fix prices, production or supply or to allocate sales, customers or markets; bid-rigging; and false or misleading advertising. All may, on conviction, result in imprisonment, very significant financial penalties, or both. The Competition Act also regulates certain “reviewable conduct”, including deceptive marketing (including [greenwashing complaints](#), a growing area of enforcement); refusals to deal; price maintenance; exclusive dealing, tied selling and market restriction practices; abuse of dominance; and other practices that may prevent or lessen competition. To be found to have engaged in reviewable conduct, it’s generally necessary to show an anti-competitive effect. Where a party is found to have engaged in reviewable conduct, the Competition Tribunal can issue a broad range of remedial orders, including very significant administrative monetary penalties. However, imprisonment is not a potential penalty for reviewable conduct. In addition, the Competition Act regulates mergers, which includes mandatory pre-notification of mergers that involve parties or a transaction above certain size thresholds, and the power to undertake substantive review of mergers (regardless of the size of the parties or the transaction) where such merger lessens or is likely to lessen competition substantially.



Environmental, Social & Governance - ESG



CHRIS BORDEN

Like the rest of the world, Canada and New Brunswick are increasingly adopting mandatory ESG (Environment, Social and Governance) reporting and disclosure. This is a quickly evolving area and it's critical to ensure ongoing monitoring of and compliance with these expanding obligations, including:

REGISTER OF INDIVIDUALS WITH SIGNIFICANT CONTROL. Both federally regulated and provincially regulated private corporations must prepare and maintain a register of individuals who have “significant control” over the corporation. The stated purposes of the register are to increase corporate transparency respecting who owns and controls a corporation, and to help law enforcement agencies expose activities such as money laundering and tax evasion.

MODERN SLAVERY ACT. Certain entities, which could include both Canadian and non-Canadian owned or controlled entities), must prepare and submit a publicly available annual modern slavery report under the federal *Fighting Against Forced Labour and Child Labour in Supply Chains Act* (also known as “The Modern Slavery Act”).

CORPORATE GOVERNANCE DIVERSITY REPORTING. Certain corporations must annually report the diversity in their Board and senior management ranks.

UNDERUSED HOUSING TAX ACT REPORT. Trustees of a non-specified Canadian trusts, partners of a non-specified Canadian partnerships, non-specified Canadian corporations, and non-Canadians that own residential property in Canada are required to annually report and pay taxes owed under Canada's *Underused Housing Tax Act* or face exposure to both non-compliance penalties and interest, unless otherwise excluded by the *Underused Housing Tax Act*.



Intellectual Property



PATRICK KERR

Intellectual Property is regulated by federal legislation. To protect your innovations and brand identity, [register and enforce your intellectual property \(IP\) rights](#).

COPYRIGHTS. Copyrights protect original artistic, literary, musical, and dramatic works, including computer programs. Although copyrights are automatically granted upon creation and protected through international treaties, registering the work with the Canadian Intellectual Property Office provides additional legal benefits and facilitates enforcement.

TRADEMARKS. Trademarks protect the names, logos, and slogans that distinguish your goods or services from those of competitors. Although some protection of unregistered trademarks is available, to the extent the trademark is used and known in certain regions, registering your trademarks with the Canadian Intellectual Property Office ensures exclusive rights to use your marks in Canada.

PATENTS. Patents protect new inventions, including products, processes and improvements. To secure exclusive rights to your inventions for up to 20 years, apply for a Canadian patent through the Canadian Intellectual Property Office (CIPO).

INDUSTRIAL DESIGNS. Industrial designs protect the unique visual appearance of products. To obtain exclusive rights for up to 15 years, register your designs with the Canadian Intellectual Property Office.

TRADE SECRETS. A trade secret is any information used in a trade or business that's not generally known, has economic value because it's not generally known and is kept secret by the owner. In Canada, there's no legislation that either defines or protects trade secrets, so registration isn't required for them to exist. Trade secrets are only protected while they remain a secret.

Marketing Agreements



MICHAEL MELVIN

AGENCY.

There are no specific agency laws in New Brunswick beyond the common law.

FRANCHISING.

The [New Brunswick Franchise Act](#) governs the sale of franchises in New Brunswick, as well as certain ongoing aspects of the franchise relationship. The Act requires franchisors to deliver a Franchise Disclosure Document to prospective franchisees prior to selling a franchise, guarantees the right of franchisees to associate and codifies a duty of fair dealing owed by franchisors and franchisees to one another, which includes a duty to act in good faith and in a commercially reasonable manner.

E-Commerce



ADEL GONZCI

The [New Brunswick Electronic Transactions Act](#), modeled on Canada's Uniform Electronic Commerce Act created by the Uniform Law Conference of Canada, and similar to e-commerce statutes across Canada, regulates the validity and the enforceability of electronic documents and contracts made in New Brunswick as well as electronic signatures. Subject to certain exceptions, the Act provides that in any circumstance where a signature is required in law, an electronic signature that meets the definition and reliability requirements set out in the statute is satisfactory.

Privacy, Data Protection & Cyber Security



DAVID FRASER

PERSONAL INFORMATION PROTECTION. Several statutes apply to protect Canadian and New Brunswick personal information, including:

- The federal [Personal Information Protection and Electronic Documents Act](#) regulates the collection, use and disclosure of personal information by private sector organizations in the course of commercial activities in Nova Scotia. The federal [Digital Privacy Act](#) amended PIPEDA in 2015, imposing strict and onerous mandatory data breach record-keeping, reporting and notification rules on organizations subject to PIPEDA, with significant non-compliance consequences. PIPEDA is overseen by the Privacy Commissioner of Canada.
- Personal health information that is collected, used and disclosed in the healthcare system is regulated by the [New Brunswick Personal Health Information Privacy and Access Act](#). (PHIPAA)
- Within the public (government) sector, personal information is regulated by three statutes, depending on the nature of the entity. Within the federal government and federal government bodies (including some crown corporations), personal information is subject to the [Privacy Act](#) of Canada, also which the Privacy Commissioner of Canada oversees. Within provincial and municipal governments, including Crown corporations and universities, personal information is subject to the [New Brunswick Personal Health Information Privacy and Access Act](#) (PHIPAA). The New Brunswick Ombud oversees RTIPPA and PHIPAA.

ANTI-SPAM LEGISLATION. [Canada's Anti-Spam Legislation \(CASL\)](#) regulates electronic-based commercial communications and applies to just about every and every person sending just about every form of commercial electronic message to, from or within Canada. Notably, CASL creates an opt-in rather than an opt-out regime. Similar to the federal [Digital Privacy Act](#), the non-compliance penalties can be significant.



Product Liability



CHRIS KEIRSTEAD

A product liability claim in New Brunswick can be based on:

- The terms of a purchase or supply contract.
- An implied warranty under the [New Brunswick Sale of Goods Act](#) and/or the [New Brunswick Product Warranty and Liability Act](#).
- A negligence claim under common law for a negligently manufactured product, a negligently designed product or failure to warn foreseeable users of the product of inherent dangers of the product.

The legal obligations of a distributor of final or near-final products may differ from the legal obligations of a manufacturer or designer.



Indigenous Relations



JEFF CALLAGHAN

Virtually all areas of law in Canada are impacted by Indigenous rights and interests. There is a constitutional [duty to consult Indigenous groups](#) when either the federal or the provincial governments contemplate actions that may impact their rights or title under section 35 of the [Canadian Constitution](#). This duty to consult significantly impacts many project proponents, particularly in the energy and natural resources sector, including both traditional and emerging renewables. An increasing number of Canadian First Nations are both partnering with non-Indigenous project proponents and with other First Nations communities with respect to major projects in New Brunswick and throughout Canada.

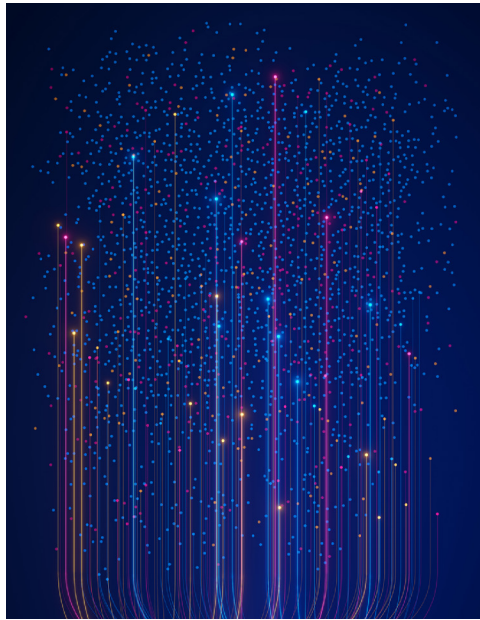
Helpful Connections

ATLANTIC CANADA OPPORTUNITIES AGENCY (ACOA)

ACOA is a federal agency that works to create opportunities for economic growth in the Atlantic region. ACOA offers a wide range of services, resources and financial supports.

OPPORTUNITIES NEW BRUNSWICK

Opportunities New Brunswick works with New Brunswick businesses and businesses interested in operating in New Brunswick.



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