



Bill C-5: An Act to enact the Free Trade and Labour Mobility in Canada Act and the Building Canada Act



Background

Bill C-5, which received Royal Assent on June 26, 2025, is omnibus legislation titled *An Act to enact the Free Trade and Labour Mobility in Canada Act and the Building Canada Act*. The portion known as the *Building Canada Act* creates a framework to accelerate approvals and construction of infrastructure projects designated as being in the “national interest.” Under this regime, Cabinet may declare projects—such as highways, ports, pipelines, or federal facilities—as “national interest projects,” triggering a streamlined process whereby all required federal regulatory approvals are deemed issued through a single ministerial authorization document. The *Building Canada Act* also exempts designated projects from significant portions of the *Impact Assessment Act* and other environmental and permitting statutes, consolidating decision-making authority within the Federal Executive Council.

Summary of Amendments to Building Canada Act

From First Reading in the House of Commons to Royal Assent, the *Building Canada Act* progressed through several draft acts during committee review and report stages (collectively, the “Draft Acts”). The final Building Canada Act reflects the amendments adopted by Parliament (the “Final Act”), as follows:

- **Public Registry and Information Disclosure:** The Final Act establishes a public registry for national interest projects, which is accessible to the public through the internet. This registry includes detailed descriptions of each project, reasons for its national interest status, cost estimates, and timelines for completion.¹ In contrast, the Draft Acts did not provide for the establishment of such a public registry or any related information disclosure mechanisms.
- **National Security and Foreign Investment:** The Final Act mandates a national security review for all state-owned or foreign investments from hostile countries in any national interest project. It requires the Minister to ensure that all necessary measures are taken to protect national security interests regarding foreign investments.² This requirement is absent in the Draft Acts, which did not address national security reviews for foreign investments.
- **Conflict of Interest:** The Final Act includes specific conflict of interest provisions. Before recommending an order for a national interest project, the Minister must be satisfied that neither the proponent nor any significant shareholder, director, or officer has been found in violation of the Conflict of Interest Act (Canada). Additionally, any public office holder in a potential conflict must recuse themselves.³ These provisions are not present in the Draft Acts.
- **Amendment and Deletion of Projects:** The Final Act requires a 30-day notice and consultation with the relevant provincial or territorial government before adding a project to Schedule 1 (i.e., designating it a project of national interest). This includes obtaining written consent if the project

¹ Final Act, s 5.1.

² Final Act, s 7(2)(b.1).

³ Final Act, s 5(6.1).



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falls within exclusive provincial or territorial jurisdiction.⁴ The Draft Acts did not specify such a requirement for notice or consultation before amending Schedule 1.

- **Review and Reporting Requirements:** The Final Act mandates an independent review of each national interest project annually. This review assesses progress on measurable outcomes, including timelines and budgets, and the report must be tabled in Parliament.⁵ The Draft Acts do not require such independent reviews or reporting.
- **Removal of Indian Act Approvals from Deemed Authorizations:** In the original draft, the *Indian Act* was listed among the federal statutes whose approvals, permits and authorizations could be deemed issued once a project was designated a national interest project and a ministerial authorization document was issued under sections 6 and 7. This meant that projects potentially impacting reserve lands could have bypassed procedural requirements such as band council resolutions or member consent for land use or surrenders. However, in the version of the Act passed at Royal Assent, the *Indian Act* was removed from Schedule 2, meaning it now remains fully in force and outside the scope of the deemed approval regime. This change preserves the existing statutory protections under the *Indian Act*, ensuring that federally designated infrastructure projects must still comply with existing land governance processes, thereby reducing the risk of unilateral federal action on reserve lands without proper First Nation authorization.

Possible Implications of Building Canada Act for First Nations' Rights

The *Building Canada Act* has several significant implications for First Nations and their rights:

- **Reduced Consultation and Participation:** While the *Building Canada Act* does not eliminate the Crown's constitutional duty to consult and accommodate First Nations under section 35 of the *Constitution Act, 1982*, it significantly reduces the procedural opportunities through which consultation typically occurs. Although the Minister must consult before recommending a project designation, there are no clear standards for the scope or depth of this consultation, and once a project is designated, many of the regulatory processes—such as environmental assessments and permitting reviews—that ordinarily provide forums for dialogue and accommodation are bypassed or deemed complete.
- **No Requirement for Free, Prior, and Informed Consent:** The Act does not contain any provisions mandating the consent of First Nations whose rights, title, or interests may be affected, contrary to the principles set out in the United Nations Declaration on the Rights of Indigenous Peoples as affirmed by the federal *United Nations Declaration on the Rights of Indigenous Peoples Act*.

⁴ Final Act, s 5(1.1).

⁵ Final Act, s 23.1.



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- **Diminished Environmental Oversight:** The legislation exempts designated projects from large portions of the *Impact Assessment Act* and other federal environmental statutes, reducing protection for lands, waters, and resources that are central to the exercise of Aboriginal and treaty rights.
- **Centralization of Decision-Making Authority:** By consolidating approval power within the federal executive branch, the Act removes procedural safeguards, independent assessments, and accountability measures that have historically provided avenues for First Nations to influence project outcomes.
- **Increased Legal Uncertainty and Litigation Risk:** Because the duty to consult and accommodate remains a constitutional obligation, the removal of procedural mechanisms for engagement increases the likelihood that First Nations will be compelled to challenge designations and authorizations in court to protect their rights.