

RSNL1990 CHAPTER W-9

WILDERNESS AND ECOLOGICAL RESERVES ACT

Amended:

1993 cD-19.1 s21; 1994 c35; 1996 cR-10.1 s82; 1997 c13 s62;
1997 c40; 1999 c33; 2004 cL-3.1 s68; 2006 c40 s21

CHAPTER W-9

AN ACT TO PROVIDE FOR NATURAL AREAS IN THE PROVINCE TO BE SET ASIDE
FOR THE BENEFIT, EDUCATION AND ENJOYMENT OF THE PEOPLE OF THE
PROVINCE

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Short title

1. This Act may be cited as the Wilderness and Ecological Reserves Act .

1980 c2 s1

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Definitions

2. In this Act

- (a) "advisory council" means the Wilderness and Ecological Reserves Advisory Council;
- (b) "ecological reserve" means an area referred to in section 5;
- (c) "government" includes an agent of the Crown in right of the province, or of Canada ;
- (d) "management plan" means a plan that sets out the purpose for which a reserve is to be created, the particular features that are of interest in it and the management techniques recommended for preservation or study of those features;
- (e) "minister" means the minister appointed under the Executive Council Act to administer this Act;
- (f) "reserve" means an ecological reserve or wilderness reserve; and
- (g) "wilderness reserve" means an area referred to in section 4.

1980 c2 s2; 1981 c4 Sch F; 1989 c21 Sch B; 1993 cD-19.1 s21; 2006 c40 s21

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Application of Act

3. This Act applies to all land, including water, in the province notwithstanding another Act or law in the province permitting the use or disposition of or access to land.

1980 c2 s3

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Labrador Inuit rights

3.1 Notwithstanding section 3, this Act and regulations made under this Act shall be read and applied in conjunction with the Labrador Inuit Land Claims Agreement Act and, where a provision of this Act or regulations made under this Act is inconsistent or conflicts with a provision, term or condition of the Labrador Inuit Land Claims Agreement Act, the provision, term or condition of the Labrador Inuit Land Claims Agreement Act shall have precedence over the provision of this Act or a regulation made under this Act.

2004 cL-3.1 s68

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Wilderness reserves

4. The Lieutenant-Governor in Council may set aside, as wilderness reserves, areas of the province that are subject to no or little human activity,

(a) to provide for the continued existence of those areas as large wilderness areas to which people may come and in which they may hunt, fish, travel and otherwise experience and appreciate a natural environment;

(b) to allow within those areas undisturbed interactions of living things and their environment;

(c) to preserve those large areas that may be necessary for the continued survival of a particular species; or

(d) to protect areas with primitive or extraordinary characteristics.

1980 c2 s4

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Ecological reserves

5. The Lieutenant-Governor in Council may set aside, as ecological reserves, areas of the province that contain a representative or unique ecosystem, species or natural phenomena

(a) to provide for scientific research and educational purposes in aspects of the natural environment;

(b) to preserve the habitat of an animal or plant species that is rare or endangered;

(c) to provide standards against which the effects of development in other areas may be measured;

(d) to provide an opportunity for study of the recovery of ecosystems from the effects of modification by human beings;

(e) to preserve rare botanical, zoological, geological or geographical characteristics;

(f) to preserve representatives of distinct ecosystems in the province; or

(g) to preserve organisms in their natural habitat to ensure the preservation of their gene pools.

1980 c2 s5

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Advisory council

6. The Wilderness and Ecological Reserves Advisory Council is continued for the purpose of advising the Lieutenant-Governor in Council through the minister on matters in relation to the establishment, management and termination of reserves and for the better administration of this Act.

1980 c2 s6

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Council members

7. (1) The Lieutenant-Governor in Council shall appoint up to 11 members to the advisory council with at least 6 of the 11 to represent the public.

(2) Members of the advisory council are appointed for a term of 3 years.

(3) A member on the expiration of his or her term of office is eligible for reappointment.

(4) Where a member of the advisory council during the term for which he or she was appointed stops being a member, or is unable to perform the duties of the office because of incapacity or illness, the Lieutenant-Governor in Council may appoint a person to hold office as a member of the advisory council for the remainder of that term.

1980 c2 s7

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Council officers

8. (1) The members of the advisory council shall elect from among themselves a chairperson, for a term of 1 year immediately after his or her election, who shall preside at

meetings of the advisory council and a vice-chairperson, for the same term, who shall preside in the absence of the chairperson.

(2) The chairperson and vice-chairperson are eligible for re-election.

(3) Where the chairperson and vice-chairperson are absent from a meeting of the advisory council, the members present shall elect a person from among themselves to act as chairperson for that meeting and while so acting that person has the powers of the chairperson.

1980 c2 s8

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Expenses

9. (1) The expenses of the council are to be defrayed out of money appropriated out of the Consolidated Revenue Fund.

(2) A member of the advisory council is not entitled to payment for services performed as a member but he or she is entitled to be paid by the advisory council for travelling and other expenses reasonably incurred by him or her in attending meetings of the advisory council or in the discharge of duties assigned to the member by the advisory council.

1980 c2 s9

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Report to minister

10. The advisory council shall make a report to the minister, in the form that the minister may direct, on the expenses and operations of the advisory council and shall make other reports in the form that the minister may direct.

1980 c2 s10

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Powers of council

11. (1) The advisory council may examine an area of the province in order to determine which areas are suitable for the establishment of a reserve.

(2) The advisory council may accept recommendations from the public in relation to the establishment of or a change in a reserve.

1980 c2 s11

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Duties of council

12. (1) The advisory council shall give information on the areas determined as suitable for the establishment of a reserve under section 11 to interested departments of the governments of the province and Canada and to interested boards, commissions or other bodies, whether incorporated or unincorporated, members of which or the members of the board of management or board of directors of which, are appointed by an Act or by the Lieutenant-Governor in Council.

(2) Where, in the opinion of the advisory council, the comments received under subsection (1) from the interested departments and bodies do not change the opinion as to the suitability of the area for the establishment of a provisional reserve, the advisory council shall give a report to the Lieutenant-Governor in Council.

(3) [Rep. by 1997 c40 s1]

1980 c2 s12; 1997 c40 s1

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Duties of minister

13. Where subsections 12(1) and (2) have been carried out, the minister shall prepare

- (a) a boundary description of the area that will constitute the provisional reserve; and
- (b) a statement of the purposes for establishing the provisional reserve.

1997 c40 s2

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Provisional reserve

14. (1) After receiving a report under subsection 12(2) and the description and statement required by section 13, the Lieutenant-Governor in Council may order that a provisional reserve be established and that order shall contain that description and statement.

(2) An order made under this section is subordinate legislation for the purpose of the Statutes and Subordinate Legislation Act .

1997 c40 s2

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Information on reserves

15. Within one year from the date of the establishment of a provisional reserve, the minister shall prepare and publish, in a newspaper in circulation in the area of the provisional reserve, a notice that contains

- (a) a boundary description of the area of the proposed reserve;
- (b) an outline of the management plan of the proposed reserve; and

(c) a statement indicating that the minister requires written notice within the next 30 days where a member of the public intends to participate in a public hearing on the establishment of the reserve.

1997 c40 s2

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Public hearing

16. (1) The minister shall set a time and place for the holding of a public hearing by the advisory council to consider submissions, representations and objections respecting the establishment of a reserve including the boundary description and management plan of the proposed area.

(2) The time of the holding of a public hearing shall be within 90 days of the date of publication of the notice referred to in section 15 but after 30 days notice has been given to the public of the time and place of the hearing.

1980 c2 s16; 1991 c43 s21

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Report to Lieutenant-Governor in Council

17. (1) The advisory council shall report in writing to the Lieutenant-Governor in Council, through the minister, on the advisability of the establishment of a reserve including a review of the benefits and disadvantages of the establishment, and with a review on public hearing proceedings held under section 16, including its assessment of objections or reservations raised at the hearing.

(2) A report under subsection (1) shall be made within 120 days of the public hearing.

(3) Where the advisory council in its report made under subsection (1) recommends the establishment of a reserve, it shall include in that report

(a) the boundary description, management plan and proposed regulations in relation to that proposed reserve as revised in consideration of the public hearing; and

(b) comments on the rights and interests affected by the establishment of a reserve and an estimate of the compensation for those rights and interests.

1980 c2 s17; 1983 c85 s1

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Reserve established

18. (1) After consideration of the report referred to in section 17, the Lieutenant-Governor in Council may order that the provisional reserve be discontinued or that a reserve be established.

(2) Where a provisional reserve is discontinued, the minister shall publish a notice to that effect in a newspaper in circulation in the area of the provisional reserve.

(3) Where a reserve is established, the minister shall publish a notice in a newspaper in circulation in the area of the reserve to indicate the establishment of the reserve, a description of the area involved and an outline of the management plan of the reserve.

(4) An order made under subsection (1) is subordinate legislation for the purpose of the Statutes and Subordinate Legislation Act .

1997 c40 s3

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Existing areas considered reserves

19. The bird sanctuaries as described in the Schedule are considered to be reserves under this Act, and the bird sanctuaries are considered to include water around the sanctuaries that is within the jurisdiction of the province.

1983 c85 s3

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Reserve programs

20. The minister may carry out measures or programs in a reserve,

- (a) for the preservation and protection of the reserve;
- (b) for biological or physical research; or
- (c) for anything necessary for the purpose of this Act.

1980 c2 s19

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Change in area or plan

21. (1) The Lieutenant-Governor in Council may enlarge the area of a reserve and sections 12 to 18 apply, with the necessary changes, to establish the change.

(2) The Lieutenant-Governor in Council may decrease the area of a reserve and sections 15 to 18 apply, with the necessary changes, to establish the change.

(3) The Lieutenant-Governor in Council may, by order, change the management plan of a reserve.

(4) Before changing the area or management plan of a reserve under this section the Lieutenant-Governor in Council shall be supplied with recommendations of the advisory council in relation to the change.

1980 c2 s20

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Emergency reserve

22. (1) The minister may order that an endangered area be established as an emergency reserve.

(2) In this section, an endangered area is an area that

(a) is under examination by the advisory council under section 11; or

(b) has been so examined and found suitable for the establishment in it of a reserve but is not yet established as a provisional reserve,

and in the opinion of the minister is in danger because of some imminent activity, action or event of becoming an area that would not be suitable for the establishment in it of a reserve.

(3) Sections 12 to 18 apply, with the necessary changes, in relation to establishing an emergency reserve as a reserve but a reserve may be established under this section only where it is established within 2 years from the date of the order referred to in subsection (1).

1980 c2 s21; 1983 c85 s4

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Acquisition of land

23. (1) The Lieutenant-Governor in Council may authorize the minister

(a) to make an agreement with a person in relation to his or her interest, right, title or estate in land that is in a reserve, provisional reserve or in a emergency reserve; or

(b) to expropriate land that is in a reserve.

(2) For the purposes of expropriation under this section, the minister is an authority for the purposes of the Expropriation Act; and the provisions of that Act in relation to the manner of expropriation, assessment of compensation and rights and manner of appeal apply, with the necessary changes, to an expropriation under this Act.

1980 c2 s22; 1996 cR-10.1 s82; 1997 c40 s4

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Prohibited activities

24. (1) A person shall not

(a) within a reserve, provisional reserve or emergency reserve

(i) construct a structure or reconstruct or add to a structure or build a road, path or track, or

(ii) engage in the cutting or logging of trees, agriculture, mining, prospecting or claims staking; or

(b) within or outside a reserve, provisional reserve or emergency reserve alter the course of or amount of flow of water so as to affect that course or amount within a reserve, provisional reserve or emergency reserve.

(2) A person shall not, within a wilderness reserve, provisional wilderness reserve or emergency wilderness reserve

(a) use motorized vehicles or equipment;

(b) land aircraft; or

(c) conduct a spraying program against insect infestation, unless the minister has approved the program.

(3) A person shall not

(a) within an ecological reserve, provisional ecological reserve or emergency ecological reserve

(i) fish,

(ii) hunt, trap, net or snare an animal,

(iii) use motorized vehicles or equipment,

(iv) land aircraft, or

(v) conduct a spraying program against insect infestation, unless the minister has approved the program;

(b) remove from an ecological reserve, provisional ecological reserve or emergency ecological reserve or destroy or impair in it a plant, animal, fossil or object of historical or scientific interest; or

(c) introduce to an ecological reserve, provisional ecological reserve or emergency ecological reserve a plant or animal species.

1980 c2 s23; 1996 cR-10.1 s82; 1997 c13 s62; 1997 c40 s5

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Exemptions

25. (1) The Lieutenant-Governor in Council may make regulations permitting the following activities to be performed or continued:

- (a) activities prohibited under subsection 24(3);
- (b) activities prohibited under subsection 24(2) where they are for the purpose of management of the area;
- (c) activities prohibited under section 24 that at the time of or immediately before the establishment of a provisional reserve are being carried out;
- (d) in an emergency reserve, activities prohibited under section 24 that are not in conflict with the purpose for which the emergency reserve was established; and
- (e) activities prohibited under section 24 for geological, geophysical and geological surveys that are done for the purpose of correlating information associated with mining or prospecting operations outside the reserve, provisional reserve or emergency reserve.

(2) Activities permitted under subsection (1) may be subject to those conditions that may be prescribed, but an activity described in paragraph (1)(c) may not be permitted to continue at a level of activity greater than the level at which the activity was carried out at the time of or immediately before, whichever is higher, the establishment of the provisional reserve.

(3) Notwithstanding section 24, an officer appointed under section 25.1 and a wild life officer, as defined in the Wild Life Act, may perform the following activities for the purpose of protection against or prevention of the commission of an offence under this Act or of the apprehension of a person who the wild life officer reasonably believes has committed an offence:

- (a) activities prohibited under paragraphs 24(2)(a) and (b);
- (b) activities prohibited under subparagraphs 24(3)(a)(iii) and (iv); and
- (c) activities prohibited under paragraph 24(3)(b) where the removal is necessary in order to provide evidence in relation to an offence.

1980 c2 s24; 1996 cR-10.1 s82; 1997 c40 s6; 1999 c33 s1

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Appointment of officers

25.1 (1) The minister may appoint officers who shall exercise the powers and perform the duties that are conferred or imposed upon them by this Act or the regulations or assigned to them by the minister.

(2) An officer appointed under subsection (1) has and may exercise within a reserve, a provisional reserve or an emergency reserve the power and authority of a member of the Royal Newfoundland Constabulary for the purpose of this Act.

1999 c33 s2

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Offences

26. (1) A person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction

(a) in the case of a natural person,

(i) for a first offence, to a fine not exceeding \$5,000 and not less than \$200 or to imprisonment for a term not exceeding 60 days,

(ii) for a second offence, to a fine not exceeding \$10,000 and not less than \$500 or to imprisonment for a term not exceeding 120 days, and

(iii) for a third or subsequent offence, to a fine not less than \$1,000 or to imprisonment for a term not exceeding 6 months and not less than one month; and

(b) in the case of a corporation,

(i) for a first offence, to a fine not less than \$5,000,

(ii) for a second offence, to a fine not less than \$10,000, and

(iii) for a third or subsequent offence, to a fine not less than \$20,000.

(2) A person convicted under this Act or a regulation for an offence involving damage to land included in a reserve, provisional reserve or an emergency reserve may be ordered, in addition to a fine under subsection (1),

(a) to restore that land to the satisfaction of the advisory council; or

(b) to pay the compensation to the Consolidated Revenue Fund that the judge may fix.

1980 c2 s25; 1999 c33 s3

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Offence under another Act

27. (1) Notwithstanding section 26, where an act or omission constitutes an offence under this Act and 1 or more other Acts, the offender is liable on summary conviction to a penalty that is at least equal to the highest minimum penalty in those Acts for that act or omission.

(2) The burden of establishing the highest minimum penalty referred to in subsection (1) is on the prosecutor and where no higher minimum penalty is established, the penalty provided for in section 26 applies.

1980 c2 s26

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Act binds Crown

28. The Crown is bound by this Act.

1980 c2 s27

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Regulations

29. The Lieutenant-Governor in Council may make regulations

(a) respecting the control or prohibition of a use, development or occupation of the land or natural resources in a reserve, provisional reserve or emergency reserve;

(b) respecting the control or prohibition of the dumping, deposit or emission within a reserve, provisional reserve or emergency reserve of a substance;

(c) respecting access to a reserve, provisional reserve or emergency reserve; and

(d) generally, to give effect to the purpose of this Act.

1980 c2 s28; 1996 cR-10.1 s82; 1997 c40 s7

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Schedule

A. [Rep. by 1994 c35 s1]

B. [Rep. by 1994 c35 s1]

C. Funk Island Seabird Sanctuary

Description

Funk Island (49° 46'N, 53° 11'W) and the water surrounding it that is within the jurisdiction of the province.

D. Hare Bay Seabird Sanctuary

Description

Spring Island (51° 14'N, 55° 50'N), Brent Island (51° 16'N, 55° 57'N), and Duck Island (51° 19'N) and the water surrounding them that is within the jurisdiction of the province.

E. Gannet Islands Seabird Sanctuary

Description

A group of 6 islands (53° 56'N, 56° 32'W) known as Gannet Islands and Outer Gannet Island (54° 00'N, 52° 32'W) in Sandwich Bay, Labrador and the water surrounding them that is within the jurisdiction of the province.

1983 c85 s5; 1994 c35 s1

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