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[Table of Public Statutes](#)

[Main Site](#)

[How current is this statute?](#)

[Responsible Department](#)

RSNL1990 CHAPTER W-8

WILD LIFE ACT

Amended:

1992 c48 s25; 1993 cD-19.1 s21; 1996 cR-10.1 s81; 1997 c13 s77; 1998 c6 s28; 2001 cN-3.1 s2;
2004 cL-3.1 s67; 2004 c36 s48; 2004 c47 s37; 2005 c14; 2006 cS-31.1 s86 ; 2009 c22; 2010 cA-9.1
s80; 2013 c16 s25

CHAPTER W-8

AN ACT RELATING TO WILD LIFE

Analysis

[1. Short title](#)

[2. Definitions](#)

[3. Students at institutions outside the province](#)

[3.1 Labrador Inuit rights](#)

[4. Terms defined](#)

[5. Powers of minister](#)

[6. Advisory boards](#)

[7. Regulations](#)

[7.1 Fees](#)

[8. Appointment of officers](#)

[9. Oath or affirmation](#)

[10. Licences](#)

[10.1 Suspension or cancellation](#)

[11. Evidence](#)

[12. Certificate proof](#)

[13. Search](#)

[14. Arrest without warrant](#)

[15. Seizure and confiscation](#)[16. Seizure and disposition](#)[17. Application by person claiming interest](#)[18. Offence and penalty](#)[19. Personating wild life officer](#)[20. Administration of oaths or affirmations](#)[21. Prohibition of waste](#)[22. Service of summons](#)[23. Proof of service](#)[24. Non-appearance of defendant](#)[25. Non-resident](#)[26. Trial of offences](#)[27. Penalty re moose](#)[27.1 Penalty re: fish](#)[28. General penalty](#)[29. Prohibition against holding licence](#)[29.1 Additional penalty](#)[30. Powers and protection of wild life officers](#)**Short title**

1. This Act may be cited as the *Wild Life Act*.

RSN1970 c400 s1

[Back to Top](#)**Definitions**

2. In this Act

- (a) "angle" and "angling" means fishing or attempting to fish with a hook and line with the line held in the hand or with a hook, line and rod held in the hand and includes casting and trolling;
- (a.1) "closed season" means a period during which the angling for or hunting, taking or killing of wildlife is prohibited;
- (a.2) "department", unless the context indicates otherwise, means the department presided over by the minister;
- (b) "fish" means fresh water fish and fish which run up from the sea into inland water;
- (c) [Rep. by 1998 c6 s28]
- (d) "fur bearing animal" means wild life known as beaver, fisher, fox, lynx, marten, mink, muskrat, otter, squirrel, weasel, wolf and wolverine;
- (e) "guide" means a person who for payment or remuneration accompanies and helps another person to hunt wild life or fish;
- (f) "hunting" includes chasing, pursuing, worrying, following after or on the trail of, or searching for or lying in wait for wild life whether or not the wild life is then or later captured, injured or killed, and "hunt" and "hunter" have a corresponding meaning;

- (g) "licence" means an instrument issued under this Act or the regulations, conferring upon the holder the privilege to do the things set out in it, subject to the conditions, limitations and restrictions contained in it and in this Act or the regulations;
- (h) "minister" means the minister appointed under the *Executive Council Act* to be responsible for this Act;
- (i) "non-resident" means a person other than a resident;
- (j) "open season" means a period during which it is lawful to hunt, take or kill, or attempt to hunt, take or kill, wild life under this Act and the regulations;
- (k) "pelt" means the untanned skin of a fur bearing animal;
- (l) "resident" means
 - (i) a Canadian citizen who has lived in the province for a period of 6 consecutive months immediately preceding his or her application for a licence or permit under the regulations, and
 - (ii) a person, other than a Canadian citizen, who has lived in the province for a period of 12 consecutive months immediately preceding his or her application for a licence or permit under the regulations,and is considered to include, without a qualifying period of residence,
 - (iii) while stationed in the province, a member of the Canadian Forces or of the Royal Canadian Mounted Police, whether born in or outside the province, and
 - (iv) while stationed outside the province, a member of the Canadian Forces or of the Royal Canadian Mounted Police who was born in the province;
- (l.1) "sale" or "sell" means to exchange, barter or deliver for money or its equivalent;
- (m) "skin" means the untanned skin of a fur bearing animal stripped from the body;
- (n) "snare" means a device for the taking of animals by which they are caught in a noose, and "snaring" has a corresponding meaning;
- (n.1) "trafficking" means the illegal commercial exchange of wild life;
- (o) "trap" means a spring trap, gin, deadfall, snare, box or net used to capture wild life, and "trapping" has a corresponding meaning;
- (p) "unprime" where applied to pelts means that the pelts show natural markings of a dark or bluish colour on the flesh side;
- (q) "wild life" means a wild animal, fish or bird to which this Act or the regulations apply, and includes the furs, skins and other parts of them and the eggs of those birds;
- (r) "wild life officer" means
 - (i) a wild life officer, warden or deputy warden appointed under section 8,
 - (ii) an officer or member of
 - (A) the Royal Canadian Mounted Police stationed in the province, and
 - (B) the Royal Newfoundland Constabulary, and
 - (iii) a peace officer exercising his or her functions in the province; and

- (s) "wild life park" means an area of the province set aside by order of the minister under section 7.

RSN1970 c400 s2; 1973 No18 Sch B; 1973 No120 s2; 1975 No50 s2; 1975-76 No75 s1; 1978 c41 s1; 1979 c49 Sch D; 1981 c4 s55(7) & Sch F; 1981 c79 s8; 1989 c21 Sch B; [1993 cD-19.1 s21](#); [1998 c6 s28](#); [2005 c14 s1](#); [2010 cA-9.1 s80](#)

[Back to Top](#)

Students at institutions outside the province

3. Notwithstanding paragraph 2(l), a person ordinarily resident in the province who proceeds outside the province for the purpose of attending, and is in attendance at, a recognized educational institution does not, because of the attendance, stop being a resident for the purposes of this Act where the person intends to return to the province upon the completion of his or her studies at the institution.

1973 No120 s3

[Back to Top](#)

Labrador Inuit rights

3.1 (1) 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.

(2) Where, under this Act or regulations made under this Act, the minister issues a licence, he or she may add to that licence terms and conditions that the holder of the licence must comply with in order to ensure compliance with the provisions, terms and conditions of the *Labrador Inuit Land Claims Agreement Act*.

[2004 cL-3.1 s67](#)

[Back to Top](#)

Terms defined

4. In this Act and the regulations

- (a) a person has anything in his or her possession when the person has it in his or her personal possession or knowingly
 - (i) has it in the actual possession or custody of another person, or
 - (ii) has it in a place, whether or not that place belongs to or is occupied by the person, for the use or benefit of himself or herself or of another person;
- (b) where 1 of 2 or more persons, with the knowledge and consent of the rest, has anything in his or her custody or possession, it is considered to be in the custody or possession of each and all of them; and
- (c) the expression "accompanied by a licensed guide" means that the person who must be accompanied by a licensed guide must, while angling, hunting or shooting, be within hearing distance of the guide and, before discharging a firearm to kill big game, be in the immediate area of and in sight of the guide.

1975 No50 s3

[Back to Top](#)

Powers of minister

5. (1) The minister shall have the management and control of measures for the protection, preservation and propagation of wild life.

(1.1) The minister may, by order, fix the limits of and set aside an area of the province as a park

- (a) where captive live animals may be exhibited; and
- (b) where public, private and governmental activities are permitted only in accordance with this Act and the regulations.

(2) The minister may authorize signs or notices to be exhibited, fixed, or posted in those places that he or she may determine for the purpose of marking the boundaries of a reserve or place, the use of which for fishing, hunting, camping or other purpose is or may be prohibited or restricted under this Act or the regulations, or for the purpose of prohibiting or regulating the doing of an act or thing under this Act or the regulations or for a purpose connected with or incidental to the administration or enforcement of this Act or the regulations.

(3) With the approval of the Lieutenant-Governor in Council, the minister may, by means of

- (a) mutual agreement;
- (b) purchase;
- (c) lease; or
- (d) expropriation

acquire land granted or leased under the *Lands Act* for incorporation into a wild life park.

(4) The minister may prescribe those activities that may be engaged in within a wild life park.

RSN1970 c400 s3; [1996 cR-10.1 s81](#)

[Back to Top](#)

Advisory boards

6. The minister may appoint honorary advisory boards with whom he or she may, where the minister considers it advisable, consult in matters arising under this Act.

RSN1970 c400 s4

[Back to Top](#)

Regulations

7. (1) The minister may, subject to the approval of the Lieutenant-Governor in Council, make regulations

- (a) to prohibit the hunting, taking or killing of wild life or classes of wild life whether in particular places or at particular times and seasons or by particular methods except under licence or permit, or generally;
- (b) to provide for the issue, suspension and cancellation of licences or permits to fish for, take or kill a fish and for the issue of badges to be worn by the holders of those licences or permits and in the regulations provision may be made for the issue of those licences or permits with general application throughout the province or for the issue of different

kinds of licenses or permits in different areas of the province, and of the restriction to a prescribed quota of those licences or permits issued in respect of specified areas of the province, and where the issue of licences or permits with respect to a specified area of the province is restricted to a prescribed quota, provision may be made for the issue of a prescribed percentage of that quota to a specified class of persons;

- (c) to provide for the issue, suspension and cancellation of licences or permits to hunt, take, or kill wild life, either generally or subject to limitations as to quantities or numbers, and for the conditions which may be attached to those licences or permits or to which those licences or permits may be subject and for the issue of badges to be worn by holders of those licences;
- (d) to prescribe the royalties to be paid in respect of the skins, pelts or other parts of wild life;
- (e) to require hunters, or a specified class of hunters, or the persons accompanying the hunters, or class of hunters, to carry the equipment, supplies or other things or to wear the clothing or attach the material or other things to their clothing that may be prescribed in the regulations;
- (f) to require persons to make returns of the quantities or numbers of wild life taken or killed;
- (g) to set aside reserves in which wild life or a specified class of wild life may not be hunted, taken or killed or may be hunted, taken or killed, subject only to conditions and restrictions set out in the regulations, and within which camping or travelling may be prohibited or may be permitted subject to restrictions, and fixing the limits of the reserves;
- (h) [Rep. by 1996 cR-10.1 s81]
- (i) [Rep. by 1996 cR-10.1 s81]
- (j) to prevent the disturbance of wild life in reserved areas, in wild life parks or in other specified places;
- (k) to prevent the obstruction or pollution of non-tidal water frequented by fish;
 - (l) to control the erection, establishment and operation of camps, cabins or other buildings or accommodation used mainly or exclusively in connection with angling, hunting or shooting and to prohibit or restrict the erection, establishment or operation of those camps, cabins or other buildings or accommodation in a place specified in the regulations;
- (m) to prohibit or control the carrying of firearms or ammunition in specified areas during closed seasons or on Sundays or generally;
- (n) to prohibit or control the taking of dogs into areas frequented by wild life and the use of dogs in those areas during closed seasons or on Sundays or generally;
- (o) to prohibit the use of specified weapons, implements, appliances, or means in the hunting, taking, or killing of wild life;
- (p) to require non-residents to employ licensed guides or other paid helpers while angling, hunting or shooting;
- (q) to control and regulate the conduct of and the issue of licences to guides and other paid helpers and to regulate the issue of badges to and wearing and production of the badges by the holders of those licences;
- (r) to prohibit or control the export of wild life or a particular species or class of them or the furs, skins or other parts of them;
- (s) to licence and issue permits to buyers, shippers, exporters of and dealers in furs, pelts and skins of wild animals and to control and regulate their dealings;

- (t) to license hunters and trappers;
- (u) to control and license the sale of ammunition of all kinds or of a specified kind, and to prescribe the registers to be maintained by dealers or others and to provide for the inspection and the returns that he or she may consider necessary;
- (v) to prohibit or regulate the possession, sale or purchase of or other dealings in wild life or a particular species or class of wild life, whether generally or during periods or in circumstances to be specified in the regulations;
- (w) to prohibit or regulate the cold storage, canning or preservation by other means of the flesh of wild life;
- (x) to prescribe amounts of cash deposits for the purposes of subsection 15(7), and he or she may prescribe different amounts in respect to different items, classes, types or kinds of wild life, materials, implements, appliances or things;
- (y) to prescribe penalties for the removal, damaging or defacement of signs or notices exhibited, fixed or posted under the authority of the minister;
- (z) to control and license establishments for the breeding of wild life or a species or class of wild life in captivity;
- (aa) to determine the rewards which may be paid in cases of successful prosecution of offences against this Act or the regulations;
- (bb) to provide for the confiscation to the Crown of wild life unlawfully taken or unlawfully exported or attempted to be exported;
- (cc) to permit the sale and possession of wild life during the period other than the open season that he or she may consider appropriate;
- (dd) to prohibit, control or regulate the importation of wild life and of fur bearing animals as defined in the *Animal Health and Protection Act* into the province and into the island portion of the province from Labrador ;
- (ee) to protect, preserve and propagate the wild life and the control of shooting and hunting of wild life; and
- (ff) generally, to give effect to the purpose of this Act.

(2) The minister may in the regulations prescribe a penalty for a breach of the provisions or of an order made under them or of the conditions attached to a licence or permit issued under them or to which the licence or permit may be subject, not exceeding that provided in section 28 of this Act; and in respect of the preceding matters different regulations may be made so as to apply to different parts of the province and generally or during particular periods.

(3) Notwithstanding regulations made under subsection (1), the minister may issue a licence for the taking or export of wild life for scientific purposes or for the purposes of propagation or for presentation to or exchange with an authority or body in another province of Canada or in another country.

(4) Regulations made under subsection (1) may empower the minister to make orders for the purposes which may be prescribed by the regulations.

(5) The minister may, in regulations made under subsection (1),

(a) authorize and prescribe allowances or commissions; and

(b) authorize the actual cost to the forwarders of the fees referred to here

to be paid to, or retained out of the fees collected by, all or a class of persons authorized to collect fees with respect to the issuing of licences or permits, or both, provided for under that subsection and

the forwarding of the fees less that part of them authorized to be retained under the regulations to the minister.

RSN1970 c400 s5; 1973 No120 s4; 1978 c41 s2; [1996 cR-10.1 s81](#); [1997 c13 s77](#);
[2005 c14 s2](#); [2010 cA-9.1 s80](#)

[Back to Top](#)

Fees

7.1 The minister may set fees for the purpose of this Act.

[1997 c13 s77](#)

[Back to Top](#)

Appointment of officers

8. (1) The minister may appoint wild life officers to carry out this Act and the regulations.

(2) The minister may appoint wardens and deputy wardens for the province to help in the conservation of wild life and fish and in the enforcement of this Act and the regulations.

(3) A warden appointed under subsection (2) has and may exercise the powers of a wild life officer under this Act except the power of arrest.

(4) A deputy warden appointed under subsection (2) has and may exercise the powers of a wild life officer under this Act other than those conferred by sections 13, 14, 15, 16 and 20.

(5) The Lieutenant-Governor in Council may prescribe the terms and conditions under which wardens and deputy wardens may exercise their powers, and may substitute new terms and conditions or cancel or alter them.

(6) Where the minister is satisfied that a person appointed under subsection (2) has failed to observe or fulfil an existing term or condition prescribed under subsection (5), he or she may cancel the appointment of that person immediately.

1978 c41 s3

[Back to Top](#)

Oath or affirmation

9. (1) A wild life officer shall, where required by the minister, take and sign the following oath of office:

"I, of in the Province of Newfoundland and Labrador,, do solemnly swear (affirm) that I will faithfully, honestly, impartially and to the best of my ability, fulfil, execute and perform the office and duties of the according to the true intent and meaning of the *Wild Life Act*, and the regulations made under the Act." (Where an oath is taken, add "So help me God").

(2) Subsection (1) does not apply to officers and members of the Royal Canadian Mounted Police and of the Royal Newfoundland Constabulary and to a peace officer exercising his or her functions in the province.

RSN1970 c400 s7; [2001 cN-3.1 s2](#)

[Back to Top](#)

Licences

10. (1) Licences or permits issued under the regulations shall be signed by the minister or by the

officer that he or she may empower for that purpose.

(2) The minister shall have discretion to grant or refuse a licence or permit.

(3) The minister may suspend or cancel a licence or permit the holder of which has, in the opinion of the minister, been guilty of a breach of this Act or the regulations or of an order made under them or of a condition attached to the licence or permit or to which the licence or permit is subject; and the minister shall not be held to strict proof of the breach but may act on the information that he or she considers sufficient after considering an explanation offered by the licensee or permit holder.

RSN1970 c400 s8

[Back to Top](#)

Suspension or cancellation

10.1 (1) Upon receiving a request from the Director of Support Enforcement under subsection 54 (2) or section 55 of the *Support Orders Enforcement Act, 2006*, the minister shall, with respect to the person named in the request and in accordance with the request by written order, suspend or cancel the person's licence.

(2) Upon receiving a request from the Director of Support Enforcement under subsection 54 (4) of the *Support Orders Enforcement Act, 2006*, the minister shall, with respect to the person named in the request and in accordance with the request, reinstate a licence suspended or cancelled under this section.

(3) The minister shall reinstate a licence suspended or cancelled in accordance with an order of a court under subsection 54(7) of the *Support Orders Enforcement Act, 2006*.

(4) Notwithstanding subsection (2) or (3), the minister shall not reinstate a licence under this section unless the minister is satisfied that the person meets all the requirements for the issuance of a licence.

(5) A person who holds a licence which has been suspended or cancelled under this section and who hunts or takes any action in contravention of this section commits an offence.

[2006 cS-31.1 s86](#)

[Back to Top](#)

Evidence

11. (1) The sale or possession of wild life, except during the open season for the wild life or during another period within which the sale or possession may by regulation be permitted, is, without further proof, evidence that the person selling the wild life or having it in his or her possession has taken or killed the wild life during the closed season.

(2) The possession by a licence holder of untagged moose or caribou, where the regulations require tagging, is, without further proof, evidence that the moose or caribou was taken and possessed contrary to the regulations.

(3) The possession of the meat of moose or caribou by a person other than a licence holder is, unless that person produces written proof that the meat was in fact obtained from a licence holder, evidence that the moose or caribou was taken or killed during the closed season.

(4) The written proof referred to in subsection (3) that the meat of moose or caribou was obtained from a licence holder shall contain

(a) the name of the person receiving the meat;

(b) the approximate amount of meat given or sold by the licence holder;

- (c) the date of the gift or sale;
- (d) the licence number of the person giving or selling the meat; and
- (e) the signature of the person giving or selling the meat,

and the written proof shall be produced upon the request of a wild life officer.

1975 No50 s5; 1975-76 No75 s2

[Back to Top](#)

Certificate proof

12. (1) In a prosecution under this Act or the regulations a certificate signed by the Director of Wild Life stating that a licence, seal, tag, permit or notice has or has not been issued or given under this Act or the regulations to a person is, in the absence of evidence to the contrary, proof of the fact stated in it without proof of the signature or official character of the director.

(2) A certificate referred to in subsection (1) is not admissible in evidence unless the accused has had reasonable notice of the intention of the submission of the certificate as evidence and has been sent a copy of the certificate.

(3) Where a certificate referred to in subsection (1) is admitted as evidence the accused may, with leave of the court, require the attendance of the Director of Wild Life for the purpose of cross-examination.

1982 c46 s1

[Back to Top](#)

Search

13. (1) A wild life officer may at reasonable times enter upon a premises or place or enter or stop and enter upon a vehicle, aircraft, vessel, boat or raft and

- (a) require the production of a licence or permit; and
- (b) search the premises, place, vehicle, aircraft, vessel, boat or raft,

so long as it is reasonably necessary to determine compliance with this Act.

(2) Where a wild life officer believes on reasonable grounds that a person has contravened this Act or regulations, a wild life officer may, with a warrant issued under subsection (3), at a reasonable time enter upon a premises, place, vehicle, aircraft, vessel, boat or raft and may investigate, inquire into and examine anything in respect of which the investigation is being made.

(3) A Provincial Court judge who is satisfied by information upon oath or affirmation that there are reasonable grounds for believing that there is on a premises, place, vehicle, aircraft, vessel, boat or raft anything that there are reasonable grounds to believe will give evidence with respect to an offence under this Act may issue a warrant authorizing a wild life officer named in the warrant to enter and search those premises, place, vehicle, aircraft, vessel, boat or raft and to search a package or luggage the wild life officer has reasonable grounds for believing contains wild life taken, killed or dealt with contrary to this Act or the regulations subject to the conditions that may be specified in the warrant.

(4) The owner or person in charge of the premises, place, vehicle, aircraft, vessel, boat or raft referred to in this section and persons found there shall give a wild life officer reasonable help to enable the wild life officer to carry out his or her duties and functions under this section and shall provide the information that the wild life office may reasonably require.

(5) Notwithstanding subsection (2), a wild life officer may exercise the power of search

referred to in that subsection without a warrant issued under subsection (3) where the conditions for obtaining the warrant exist but because of urgent circumstances it would not be practical to obtain the warrant.

(6) In subsection (5), urgent circumstances include circumstances in which the delay necessary to obtain the warrant would result in danger to human life or safety or the loss or destruction of evidence.

1985 c11 s68; 2004 c36 s48; 2005 c14 s3

[Back to Top](#)

Arrest without warrant

14. A wild life officer may arrest without warrant a person who has committed an offence under this Act or the regulations or who, on reasonable grounds, he or she believes has committed or is about to commit an offence

- (a) where the wild life officer needs to establish the identity of the person;
- (b) to secure or preserve evidence of or relating to the offence;
- (c) to prevent the continuation or repetition of the offence or the commission of another offence; or
- (d) where he or she has reasonable grounds to believe that, if the person is not arrested, the person will fail to attend in court in order to be dealt with according to law.

1975 No50 s6

[Back to Top](#)

Seizure and confiscation

15. (1) A wild life officer who has reasonable grounds to suspect that

- (a) a material, implement, appliance or thing has been used; or
- (b) wild life has been taken, killed or possessed

in violation of this Act or the regulations may, on view, seize it and a paper, document or record in the possession of the person concerned at the time of the seizure and which in the officer's opinion might give evidence of the commission of an offence under this Act or the regulations and other material, implement, appliance or thing in the possession of the person concerned at the time of seizure and capable of use in taking, killing, possessing, storing or transporting the kind of wild life with which the suspected use, taking, killing or possessing is connected, including a gun or firearm, silencer, trap, decoy, snare, light, team, wagon, automobile, motor truck or vehicle, boat, skiff, canoe or vessel, airplane, refrigerator or storage locker or container.

(2) Wild life, paper, a document, record, material, implement, appliance or thing, in this section referred to as the "forfeited item", seized under subsection (1) shall be retained in the custody of the wild life officer making the seizure or shall be delivered into the custody of the person that the minister directs.

(3) Where, in the opinion of the person having custody of wild life or other perishable thing seized under subsection (1), that wild life or other perishable thing will rot, spoil or otherwise perish, that person may sell the wild life or other perishable thing in the manner and for the price that may be determined by the minister or other person designated by the minister generally or specially for the purpose.

(4) The proceeds of a sale referred to in subsection (3), less expenses involved in the sale, shall be paid to the minister for credit to the Consolidated Revenue Fund and the proceeds not forfeited under subsection (5) or (6) or applied under subsection (13) may be paid to the person

entitled to them out of the fund.

(5) Where a person is convicted of an offence in which wild life has been taken, killed or possessed contrary to this Act or the regulations, or where the charge for an offence in which wild life has been taken, killed or possessed contrary to this Act or the regulations is proved but as a result of the application of section 731 of the *Criminal Code* the passing of a sentence has been suspended, the Provincial Court judge hearing the charge, irrespective of another penalty imposed,

- (a) shall order that wild life, firearms and ammunition seized under subsection (1), when wild life has been taken, killed or possessed contrary to this Act or the regulations, and the whole or a part of the proceeds of the sale, less expenses involved in the sale, of the wild life under subsection (3), be forfeited;
- (b) may order that other things seized under subsection (1) or the cash deposit in respect of it made under subsection (9), be forfeited;
- (c) shall order that a thing seized under subsection (1) or the cash deposit in respect of it made under subsection (9) be forfeited if the thing seized was used by its owner in relation to the transportation of big game that has been taken, killed or possessed contrary to this Act or the regulations; and
- (d) may order that the person pay to the minister an amount of compensation for the reasonable costs, expenses and charges incurred by the minister in the seizure, storage and disposition of the wild life or another thing seized under this Act that relates to the offence.

(5.1) Where a court orders a person to pay an amount of money as compensation under paragraph (5)(d), the amount may be recovered by the minister from the person to whom the order was directed as a debt owed to the Crown and the minister shall notify the person against whom the order was made of his or her determination of the amount of the recoverable costs, expenses and charges.

(6) Where a person is convicted of an offence under this Act or the regulations other than the offence referred to in subsection (5) or where the charge for an offence under this Act or the regulations other than the offence referred to in subsection (5) is proved but as a result of the application of section 731 of the *Criminal Code* the passing of a sentence has been suspended, the Provincial Court judge hearing the charge, irrespective of another penalty imposed, may order a thing seized under subsection (1) or the cash deposit in respect of it made under subsection (9), be forfeited.

(7) Upon an order made under subsection (5) or (6), the wild life, firearms, ammunition or anything referred to in subsections (5) and (6) that is ordered to be forfeited is forfeited to the Crown and may be disposed of as the minister directs and the proceeds or cash deposit that is ordered to be forfeited be paid into the Consolidated Revenue Fund.

(8) Notwithstanding subsection (5) or (6) where, at the time anything mentioned in subsection (1) is seized under that subsection, the wild life officer making the seizure is unable to ascertain that a person is the rightful owner of it then it is upon its seizure forfeited to the Crown and may be disposed of as the minister directs.

(9) Where anything mentioned in subsection (1) has been seized under that subsection, a Provincial Court judge may, except in the case of wild life or anything forfeited under subsection (8), order redelivery of it to the person from whom it was seized upon security of a cash deposit or bond, in an amount prescribed in the regulations or, where the regulations do not so prescribe, in an amount satisfactory to the minister, being given to the Crown.

(10) Wild life, firearms and ammunition not delivered under subsection (9) shall be retained in the custody of the wild life officer who made the seizure under subsection (1) or of the court, as the Provincial Court judge hearing the charges made in respect of it may order, until the final disposition of the charge, including an appeal.

(11) A forfeited item seized under subsection (1), or the cash deposit in respect of it made under subsection (9), or the proceeds realized, less expenses involved in the sale, from a sale under subsection (3), except a forfeited item forfeited under subsection (8), shall be returned or paid to the

person from whom the forfeited item or cash deposit was taken where no prosecution in respect of the alleged offence is instituted, and shall be returned or paid upon the expiration of 3 months from the day of the seizure unless before that time proceedings in respect of the alleged offence are instituted.

(12) Except as provided in section 17, a forfeited item forfeited under subsection (5), (6) or (8) shall, after the expiration of 90 days from the date of the forfeiture, be disposed of as the minister directs.

(13) Where a forfeited item has been seized under subsection (1), or a cash deposit or bond in respect of it has been made under subsection (9), and the proceedings in respect of the offence have been instituted, but the forfeited item or cash deposit or bond or proceeds realized from a sale under subsection (3) are not at the conclusion of the proceedings ordered to be forfeited under subsection (5) and have not been forfeited under subsection (8), the forfeited item or cash deposit, or bond or proceeds of sale, less expenses involved in the sale, shall be returned or paid to the person from whom the forfeited item was taken, or cash deposit received, unless there has been a conviction and a fine imposed, in which case the forfeited item may be detained until the fine is paid, or the cash deposit or bond made under subsection (9) or the proceeds realized from a sale of wild life or other perishable thing under subsection (3), less expenses involved in the sale, may be applied in or towards payment of the fine, and the cash deposit or bond not so applied may be paid to the person entitled to it out of the Consolidated Revenue Fund.

(13.1) Where a person defaults in the payment of a fine imposed against him or her for an offence committed under this Act, that fine shall be considered to be a debt owed to the Crown and the minister may issue a certificate stating the amount due to the Crown and file the certificate with the Trial Division and, when filed, the certificate is of the same effect and all proceedings may be taken on it as if it were a judgment of that court for the recovery of the amount stated against the person named in the certificate.

(14) Notwithstanding anything contained in this section, a wild life officer may, at the time of seizure, return to its habitat wild life seized under subsection (1) that the wild life officer believes to be alive.

RSN1970 c400 s11; 1975 No50 s7; 1975-76 No75 s3; 1979 c35 Sch B; 1982 c46 s2; [1992 c48 s25](#); [2004 c36 s48](#); [2004 c47 s37](#); [2005 c14 s4](#); [2013 c16 s25](#)

[Back to Top](#)

Seizure and disposition

16. A wild life officer may, without a warrant, enter and search a

- (a) logging camp, mining camp or construction camp;
- (b) trapping camp, hunting camp, fishing camp or other camp;
- (c) summer cottage or other structure,

erected in an area frequented by wild life, and

- (d) a vehicle in or near an area frequented by wild life,

in which he or she has reasonable cause to suspect a gun or other firearm is being kept contrary to this Act or the regulations and may, on view, seize the gun or other firearm, and upon conviction of a person in respect of the gun or other firearm, the gun or other firearm is, in addition to another punishment imposed, forfeited to the Crown and may be disposed of as the minister directs.

1975 No50 s8

[Back to Top](#)

Application by person claiming interest

17. (1) Where wild life, paper, a document, record, material, implement, appliance or thing is forfeited to the Crown under subsection 15(5), (6), (7) or (8), in this section referred to as the "forfeited item", a person other than a person convicted of the offence that resulted in the forfeiture or a person in whose possession the forfeited item was when seized, who claims an interest in the forfeited item as owner, mortgagee, lienholder or holder of a life interest may, within 30 days after the forfeiture, apply by written notice to a Provincial Court judge for an order under subsection (4) of this section.

(2) The Provincial Court judge to whom an application is made under subsection (1) shall fix a day not less than 10 days after the date of filing of the application for the hearing of it.

(3) The applicant shall serve a notice of the application and of the hearing upon the minister at least 5 days before the day fixed for the hearing.

(4) Where, upon the hearing of an application, it is made to appear to the satisfaction of the Provincial Court judge

- (a) in the case of a forfeiture under subsection 15(5) or (6), that the applicant is innocent of complicity in the offence that resulted in the forfeiture and of collusion in relation to that offence with the person who was convicted of the offence;
- (b) in the case of a forfeiture under subsection 15(8), that the applicant is innocent of complicity in the alleged offence that resulted in the forfeiture and of collusion in relation to that offence with a person who may have committed the offence; and
- (c) that the applicant exercised reasonable care in respect of the person permitted to obtain the possession of the forfeited item to satisfy himself or herself that it was not likely to be used contrary to this Act or the regulations, or, in the case of a mortgagee or lienholder, that he or she exercised that care with respect to the mortgagor or the lien giver,

the applicant is entitled to an order declaring the nature, extent, and, considering the then actual value of the forfeited item, value of his or her interest.

(5) Section 14 of the *Small Claims Act* with respect to an appeal to the Trial Division shall, with the necessary changes, apply to an order made under subsection (4).

(6) The minister shall, upon application made to him or her by a person who has obtained a final order under this section

- (a) except in the case of wild life or other perishable thing disposed of under subsection 15(3) or wild life or other perishable thing redelivered under subsection 15(9), direct that the forfeited item to which the interest of the applicant relates be handed over to the applicant; or
- (b) direct that an amount equal to the value of the interest of the applicant, as declared in the order, or a lesser amount that the Lieutenant-Governor in Council may direct, be paid to him or her.

(7) This section does not apply to wild life that has been returned to its habitat under subsection 15(14).

(8) A payment directed to be made under paragraph (6)(b) shall be paid out of the Consolidated Revenue Fund.

(9) Notwithstanding that the value of the property involved exceeds his or her usual jurisdiction and notwithstanding another Act or law,

- (a) a Provincial Court judge shall, for the purposes of subsections (1), (2) and (4) of this section; and
- (b) a judge of the Trial Division shall, for the purposes of subsection (5) of this section

have jurisdiction for the purposes of this section, and

- (c) the procedure in a hearing conducted by a Provincial Court judge under this section respecting the subpoenaing of witnesses and compelling them to attend, the taking and hearing of evidence and other matters not specifically provided by this section shall be governed by the *Small Claims Act*.

RSN1970 c400 s13; 1975 No50 s9; 1975-76 No75 s4; 1979 c34 Sch; 1984 c18 s12; 1986 c42 Sch B

[Back to Top](#)

Offence and penalty

18. A person who obstructs or resists a wild life officer, licensed guide or warden while he or she is engaged in exercising the powers of discharging the duties conferred or imposed under this Act or the regulations is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment to imprisonment for a period not exceeding 6 months.

1975-76 No75 s5

[Back to Top](#)

Personating wild life officer

19. (1) A person who

- (a) falsely represents himself or herself to be a wild life officer; and
- (b) not being a wild life officer, uses a badge or article of uniform or equipment in a manner that is likely to cause persons to believe that he or she is a wild life officer

is guilty of an offence and liable on summary conviction to a fine not exceeding \$500 and in default of payment, to imprisonment for a period not exceeding 6 months.

(2) Subsection (1) does not apply in respect of wild life officers who are peace officers or public officers within the meaning of section 130 of the *Criminal Code*.

1973 No120 s5

[Back to Top](#)

Administration of oaths or affirmations

20. A wild life officer shall, where authorized in writing by the minister, have power to administer oaths or affirmations and take statutory declarations for the purpose of this Act and the regulations.

RSN1970 c400 s15

[Back to Top](#)

Prohibition of waste

21. A person who, having taken or killed wild life appropriate for food, wilfully or intentionally allows its flesh to be destroyed, wasted, or spoiled, and a person who, having taken or killed a fur bearing animal, wilfully or intentionally allows their skins to be destroyed, wasted, or spoiled, is guilty of an offence and liable to a fine not exceeding \$200 and in default of payment to imprisonment for a period not exceeding 3 months.

RSN1970 c400 s16

[Back to Top](#)

Service of summons

22. (1) Where a wild life officer on reasonable grounds believes a person has committed an offence under this Act or the regulations, he or she may issue a summons to that person.

(2) A summons issued under subsection (1) shall be served by

(a) delivery personally by a wild life officer to the person to whom the summons is directed or where that person cannot conveniently be found, by leaving it for the person at his or her last known or usual place of residence with a resident who appears to be at least 16 years of age; or

(b) mailing the summons to the person to whom it is directed by registered mail.

(3) Where a summons is issued against a person who lives outside of the province the summons is considered to have been served when it has been sent by registered mail to the last known or most usual place of residence of the person summoned.

1982 c37 s1

[Back to Top](#)

Proof of service

23. (1) Personal service of a summons may be proved by a statement under oath or affirmation, written or oral, of the wild life officer who made the service.

(2) Service of a summons by mail may be proved by the production of the acknowledgement of receipt card purporting to be signed by the person who accepted the summons.

1982 c37 s1

[Back to Top](#)

Non-appearance of defendant

24. Where a person for whom a summons has been issued fails to appear at the time and place appointed in the summons, the Provincial Court judge, upon proof that the summons has been served in the manner set out in section 22, may

(a) notwithstanding anything in an Act or law, hear the complaint upon which the summons is based in the absence of the party summoned and adjudicate upon it as fully and effectively as if that party were then present before the Provincial Court judge; or

(b) adjourn the trial to a later date.

1982 c37 s1

[Back to Top](#)

Non-resident

25. (1) Where a person who lives outside of the province fails to appear on a summons issued under section 22 within 1 year after the issuing of a summons, firearms, ammunition and other items seized by a wild life officer under this Act or the regulations shall be forfeited to the Crown and may be disposed of as the minister directs.

(2) Proceeds received by the department as a result of the disposition under subsection (1) shall be paid into the Consolidated Revenue Fund.

(3) This section applies to firearms, ammunition and other items presently held in the custody of the minister.

1982 c37 s1

[Back to Top](#)

Trial of offences

26. Offences under this Act or the regulations are triable summarily before a Provincial Court judge.

RSN1970 c400 s17; 1979 c38 s7; [2004 c36 s48](#)

[Back to Top](#)

Penalty re moose

27. A person who

- (a) contravenes a requirement or obligation imposed on him or her by the regulations or an order made under them; or
- (b) fails to observe or fulfil a condition attached to a licence or permit issued to him or her under the regulations,

that relates to caribou or moose is guilty of an offence and liable on summary conviction

- (c) for a 1st offence to a fine of not less than \$1,000 nor more than \$5,000 or to imprisonment for a term of not less than 1 month nor more than 6 months or to both a fine and imprisonment; and
- (d) for a 2nd or subsequent offence that occurs within 5 years of a previous conviction to imprisonment for a term of not less than 1 month nor more than 6 months and to a fine of not less than \$3,000 nor more than \$10,000.

1982 c46 s3

[Back to Top](#)

Penalty re: fish

27.1 A person who

- (a) contravenes a provision of or a requirement or obligation imposed upon him or her under this Act or the regulations;
- (b) contravenes an order made under this Act or the regulations; and
- (c) fails to observe or fulfil a condition attached to a licence or permit issued to him or her under this Act or the regulations,

that relates to fish is guilty of an offence and is liable on summary conviction to a fine of not more than \$5,000 or to imprisonment for a term of not more than 6 months or to both the fine and imprisonment.

[2009 c22 s1](#)

[Back to Top](#)

General penalty

28. A person who contravenes a requirement or obligation imposed by this Act or the regulations or an order made under either or who fails to observe or fulfil a condition attached to a licence or

permit issued under the regulations, or who interferes with or obstructs a person in the discharge of duties under this Act, the regulations or an order, or who tears down, removes, or damages a regulation, order, or notice posted or published under this Act or the regulations is guilty of an offence and liable, on summary conviction, where a specific penalty is not provided in this Act or the regulations, to a fine not exceeding \$500 and in default of payment to imprisonment for a period not exceeding 6 months.

RSN1970 c400 s18

[Back to Top](#)

Prohibition against holding licence

29. (1) Where a person is convicted of an offence under section 27, if it is not an offence to which subsection (2) applies, the convicting Provincial Court judge shall, in addition to another penalty imposed for the offence,

- (a) cancel the moose licence and the caribou licence held by that person;
- (b) make an order prohibiting that person from holding a moose licence and a caribou licence for a period of 5 years from the date of conviction; and
- (c) where that person does not hold a moose licence and a caribou licence, make an order prohibiting that person from holding a moose licence and a caribou licence for a period of 5 years from the date of conviction.

(2) Where a person is convicted of an offence under section 27 and it is a 2nd or subsequent offence by him or her under that section committed within a period of 2 years after an earlier offence under that section for which he or she was convicted, the convicting Provincial Court judge shall, in addition to another penalty imposed for the offence, make an order permanently prohibiting the person from holding a moose licence and a caribou licence.

(3) Where a person is convicted of an offence against the Act or regulations, other than an offence under section 27, the convicting Provincial Court judge may, in addition to another penalty imposed for the offence, cancel the licence held by the person and make an order prohibiting the person from holding a licence for a period of 1 year from the date of conviction.

(4) Where a licence has been cancelled under subsection (1), (2) or (3) the licence shall be delivered immediately to the Provincial Court judge who cancelled it, who shall then mark and initial across the face of the licence the word "cancelled", and forward the licence to the minister.

(5) A person is guilty of an offence who, during a period of cancellation or prohibition under subsection (1), (2) or (3), applies for a licence, obtains another licence or makes a false statement for the purpose of obtaining a licence.

1975 No50 s11; 1975-76 No75 s6; 1978 c41 s4; 1986 c33 s15; [2004 c36 s48](#)

[Back to Top](#)

Additional penalty

29.1 (1) Where a person is convicted of an offence under section 27.1 with respect to the illegal possession, sale or trafficking of fish, if it is not an offence to which subsection (2) applies, the Provincial Court judge shall, in addition to another penalty that he or she may impose for that offence

- (a) cancel that person's inland fishery licence;
- (b) make an order prohibiting that person from holding an inland fishery licence for a period of not more than 5 years from the date of conviction; and
- (c) where that person does not hold an inland fishery licence, make an order prohibiting that person from holding an inland fishery licence for a period of not more than 5 years from

the date of conviction.

(2) Where a person is convicted of a subsequent offence under section 27.1 with respect to the illegal possession, sale or trafficking of fish within 2 years of his or her previous conviction with respect to the illegal possession, sale or trafficking of fish, the convicting Provincial Court judge shall, in addition to another penalty that he or she may impose for that offence, make an order that permanently prohibits that person from holding an inland fishery licence.

(3) Where a licence has been cancelled under subsection (1) or (2), that licence shall be stamped "cancelled" on its face and the court shall forward that cancelled licence to the minister.

(4) A person who, while prohibited from having an inland fishery licence under subsection (1) or (2) applies for an inland fishery licence, obtains an inland fishery licence or makes a false statement for the purpose of obtaining an inland fishery licence is guilty of an offence.

(5) In this section "inland fishery licence" means an inland fishery licence issued under the *Wild Life Regulations* made under this Act.

[2005 c14 s6](#)

[Back to Top](#)

Powers and protection of wild life officers

30. A wild life officer has the powers of a peace officer to enforce this Act and the regulations and when performing his or her duties is entitled to the protection to which a peace officer is entitled under the *Criminal Code*.

1975 No50 s11

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