

Beaches Act

CHAPTER 32

OF THE

REVISED STATUTES, 1989

amended 1993, c. 9, s. 9

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An Act to Preserve and Protect
the Beaches of Nova Scotia

Short title

1 This Act may be cited as the Beaches Act. R.S., c. 32, s. 1.

Dedication of beaches

2 (1) The beaches of Nova Scotia are dedicated in perpetuity for the benefit, education and enjoyment of present and future generations of Nova Scotians.

Purpose of Act

(2) The purpose of this Act is to

- (a) provide for the protection of beaches and associated dune systems as significant and sensitive environmental and recreational resources;
- (b) provide for the regulation and enforcement of the full range of land-use activities on beaches, including aggregate removal, so as to leave them unimpaired for the benefit and enjoyment of future generations;
- (c) control recreational and other uses of beaches that may cause undesirable impacts on beach and associated dune systems. R.S., c. 32, s. 2.

Interpretation

3 In this Act,

- (a) "beach" means that area of land on the coastline lying to the seaward of the mean high watermark and that area of land to landward immediately adjacent thereto to the distance determined by the Governor in Council, and includes any lakeshore area declared by the Governor in Council to be a beach;
- (b) "Minister" means the Minister of Lands and Forests;
- (c) "peace officer" includes a member of the Royal Canadian Mounted Police, a police officer appointed by a city, incorporated town or municipality of a county or district and a conservation officer as defined in the Crown Lands Act, Forests Act and Wildlife Act;
- (d) "vehicle" means a vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered pursuant to the Motor Vehicle Act, and includes an airplane;

(e) "vessel" means a means of conveyance of a kind used on water and includes an accessory to the vessel. R.S., c. 32, s. 3.

Administration

4 (1) The administration, management and control of beaches shall be under the direction of the Minister.

Natural Resources Advisory Council

(2) The Minister may refer matters relating to beaches to the Natural Resources Advisory Council established pursuant to the Natural Resources Advisory Council Act and the Council shall advise the Minister on such matters.

Other services

(3) The Minister may utilize, upon such terms and conditions as the Minister deems fit, the services of such persons as the Minister considers necessary for the efficient carrying out of the purpose of this Act and the regulations.

Agreements

(4) The Minister may, for the effective management of beaches, enter into agreements with the Government of Canada or an agency thereof, with a provincial or municipal government or an agency thereof or with a person for the purposes of this Act or the regulations.

Agreements to manage or preserve land

(5) Without restricting the generality of subsection (4), the Minister may enter into an agreement with the owner or occupier of land adjacent to a beach to manage or preserve that land so that it complements the beach.

Acquisition of land

(6) The Minister, with the consent of the Governor in Council, may acquire land or an interest in land to provide public access to and from a beach and to provide facilities there.

Authorized services

(7) The Minister may authorize lifeguard and other services on a beach.

Studies and research

(8) The Minister may undertake studies and carry out research on beaches in the Province.

Educational programs

(9) In an effort to create greater public awareness and understanding of the beaches in the Province, the Minister may promote educational programs that emphasize the importance of conserving beaches and using them for recreational and other purposes in such a manner as to maintain their environmental integrity. R.S., c. 32, s. 4; 1993, c. 9, s. 9.

Determination of beach area

5 (1) The Governor in Council, on the recommendation of the Minister, may determine what area of land to the landward of mean high watermark and immediately adjacent thereto and what lakeshore area is a beach within the meaning of this Act.

Notice of beach area

(2) When the Governor in Council determines pursuant to subsection (1) that an area of land to the landward of mean high watermark is a beach, the Minister shall

- (a) publish a notice containing a description of the beach in the Royal Gazette and in a newspaper circulated in the county or counties to which the beach is contiguous;
- (b) deposit a description and plan of the beach in the office of the registrar of deeds for the registration district in which the beach is situate, signed either by him or the Deputy Minister of Lands and Forests or by a Nova Scotia Land Surveyor;
- (c) give notice to the owner of the beach if the owner is known, by serving upon him or by mailing by registered post addressed to him at his last known place of abode, a notice containing a description of the beach and notifying him that the beach is a beach under this Act; and
- (d) post signs about the beach indicating that it is a beach and that no sand, gravel, stone or other material may be removed from it without the consent of the Minister.

Evidence of sign as prima facie proof

(3) Evidence that a sign has been posted is prima facie proof that the sign has been posted pursuant to clause (d) of subsection (2).

Certified description as prima facie proof

(4) A description and plan of a beach, appearing to be certified by the Minister or the Registrar of Crown Lands appointed pursuant to the Crown Lands Act, shall be received as evidence without proof of the signature of the Minister or Registrar of Crown Lands and the designation of any lands on the plan as a beach is prima facie proof that the lands so designated are a beach. R.S., c. 32, s. 5.

Prohibited removal of sand

6 (1) No person shall wilfully take or remove any sand, gravel, stone or other material from a beach without the permission of the Minister.

Ballast for lobster pot

(2) Nothing in this Section shall prevent or restrict a fisherman from removing from a beach rocks for ballast for his lobster pots. R.S., c. 32, s. 6.

Powers of peace officer

7 (1) A peace officer may

- (a) search without a warrant and seize a vehicle including an off-highway vehicle, vessel or other property where the peace officer has reasonable and probable grounds to believe that an offence has been committed pursuant to this Act or any other enactment, if the offence is committed on a beach, and may detain the same for a period not exceeding twenty-four hours where the peace officer has reasonable and probable grounds to believe the seizure and detention is necessary to prevent the continuation or repetition of the offence;

- (b) order a person removing or displacing sand, gravel, stone or other material from a beach without a permit or lawful authorization to return it to the general area from where it was removed;
- (c) arrest without warrant a person a peace officer finds committing an offence pursuant to this Act or the regulations or any other enactment if the offence is committed on a beach;
- (d) exercise all the powers of a peace officer as defined in the Criminal Code (Canada).

Costs of impounding and storing

- (2) Where a vehicle, vessel or other property is seized and detained pursuant to this Act, the costs of impounding and storing it shall be paid by the person to whom the seized property is to be released before it is released.

Duty of registered owner to identify operator

- (3) Where the registered owner of the seized property wilfully fails to identify the person in charge of the vehicle or vessel at the time at which it is operated in violation of a provision of this Act or the regulations within forty-eight hours of a demand by a peace officer, the registered owner is guilty of an offence.

Liability of registered owner

- (4) The registered owner of a vehicle or vessel is liable to incur the penalties provided for a violation of this Act or the regulations unless, at the time of the violation, the vehicle or vessel was in the possession of a person without the registered owners consent, either expressed or implied.

Presence of registered owner

- (5) Where the registered owner of a vehicle or vessel is present on or in the vehicle or vessel at the time of the violation of a provision of this Act or the regulations by another person operating that vehicle or vessel, the registered owner, as well as the operator, is guilty of the offence.

Summary Proceedings Act

- (6) Where not inconsistent with this Act, the Summary Proceedings Act and forms authorized thereunder applies mutatis mutandis to all prosecutions and proceedings pursuant to this Act.

Offence

- (7) Any person who fails to comply with an order made pursuant to clause (b) of subsection (1) is guilty of an offence. R.S., c. 32, s. 7.

Prohibited activities

- 8 (1) No person shall, while on a beach,
- (a) be impaired by alcohol or drugs;
 - (b) act in a noisy or disorderly manner;
 - (c) create a disturbance;
 - (d) pursue a course of conduct that is detrimental to the safety of other beach users or their enjoyment of the beach and its facilities;

- (e) wilfully destroy property and other natural resources found on or adjacent to a beach;
- (f) dump or deposit garbage or other material on a beach other than in a receptacle so provided;
- (g) engage in any other activity prohibited by regulation.

Order by Minister

(2) Where there is reasonable and probable grounds to believe that a person has violated or is about to violate any provision of this Act or the regulations, or that the entry upon or remaining within a beach by any person may be detrimental to the safety of other beach users or their enjoyment of the beach, the Minister or a person authorized to act on the Ministers behalf may, without notice or hearing, issue a verbal or written order prohibiting that person from entering upon or being within a beach specified in the order for a period specified therein.

Duty to observe order

(3) Any person having knowledge of an order made pursuant to subsection (2) shall observe that order, and in the event the person is within a beach when the order is made, shall leave forthwith. R.S., c. 32, s. 8.

Offence

9 Every person contravening any provision of this Act or of the regulations shall be guilty of an offence, and every violation in connection with a separate taking or removing of sand, gravel, stone or other material from a beach shall be a separate offence. R.S., c. 32, s. 9.

Penalty

10 (1) Any person who violates this Act is liable upon summary conviction to a penalty of not more than two thousand dollars and in default of payment thereof to imprisonment for not more than ninety days.

Additional orders

(2) In addition to any penalty imposed, the court may order a person convicted of an offence pursuant to this Act to restore the beach as nearly as possible to the condition it was in before the offence was committed and pay an amount equal to twice the market value of any aggregate or other property, damaged or removed. R.S., c. 32, s. 10.

Permission for removal of sand

11 The Minister, upon such terms and conditions as the Governor in Council from time to time prescribes, may grant permission for the removal of sand, gravel, stone or other material from a beach. R.S., c. 32, s. 11.

No compensation entitlement

12 No person affected by this Act shall be entitled to compensation for any restriction, encumbrance or use or lack of use, of any nature or kind whatsoever, of a beach that may result or results from the enacting of this Act. R.S., c. 32, s. 12.

Regulations

13 The Governor in Council may make regulations

- (a) for the preservation, control and management of beaches;

- (b) for the granting of leases, licences and permits authorizing the removal of sand, gravel, stone or other material from beaches and determining the fees and charges for such leases, licences and permits;
- (c) providing for the removal from a beach, by specified persons or persons in specified trades or occupations, of quantities of sand, gravel, stone or other material in such amount as he determines;
- (d) exempting any beach from the operation of this Act and the regulations hereto;
- (e) to preserve and protect flora and fauna located on a beach;
- (f) to restrict or regulate traffic by vehicles, vessels or pedestrians on a beach;
- (g) to restrict or regulate certain activities on a beach;
- (h) to prevent the disposal of garbage on a beach;
- (i) prescribing a minimum penalty of not less than fifty dollars and a maximum penalty of not more than two thousand dollars for offences contrary to the regulations;
- (j) respecting the management or preservation of lands adjacent to a beach in accordance with an agreement made pursuant to Section 4 or where the lands are owned or occupied by Her Majesty in right of the Province;
- (k) defining any word or expression used in this Act but not defined herein;
- (l) respecting such other matters as he deems necessary for the carrying out of the intent and purposes of this Act. R.S., c. 32, s. 13.

Regulations Act

14 The exercise by the Governor in Council of the authority set forth in Section 13 shall be regulations within the meaning of the Regulations Act. R.S., c. 32, s. 14.