

Special Places Protection Act

CHAPTER 438

OF THE

REVISED STATUTES, 1989

amended 1990, c. 45; 1994-95, c. 17; 2004, c. 6, s. 31; 2005, c. 28;
2010, c. 39, ss. 14, 15

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An Act to Provide for the Preservation,
Regulation and Study of Archaeological
and Historical Remains and Palaeontological
and Ecological Sites

Short title

1 This Act may be cited as the Special Places Protection Act. R.S., c. 438, s. 1.

Purpose of Act

2 The purpose of this Act is to

(a) provide for the preservation, protection, regulation, exploration, excavation, acquisition and study of archaeological and historical remains and palaeontological sites which are considered important parts of the natural or human heritage of the Province;

(b) provide for the preservation, protection, regulation, acquisition and study of ecological sites which are considered important parts of the natural heritage of the Province and, notwithstanding the generality of the foregoing, preserve, regulate, acquire and study those ecological sites that

(i) are suitable for scientific research and educational purposes,

(ii) are representative examples of natural ecosystems within the Province,

(iii) serve as examples of ecosystems that have been modified by man and offer an opportunity to study the natural recovery of ecosystems from such modification,

(iv) contain rare or endangered native plants or animals in their natural habitats,

(v) provide educational or research field areas for the long-term study of natural changes and balancing forces in undisturbed ecosystems; and

(c) promote understanding and appreciation among the people of the Province of the scientific, educational and cultural values represented by the establishment of special places. R.S., c. 438, s. 2.

Interpretation

3 In this Act,

(a) "Committee" means the Advisory Committee on the Protection of Special Places;

(aa) "heritage object" means an archaeological, historical or palaeontological object or remain but does not include a treasure to which the Oak Island Treasure Act applies;

(b) "Minister" means the member of the Executive Council assigned responsibility for this Act;

(c) "Museum" means the Nova Scotia Museum;

(ca) "Oak Island" means Oak Island as defined in the Oak Island Treasure Act;

(d) "registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the registry of deeds, and includes a person shown as a tenant of land on the last revised assessment roll;

(e) "special places" means those places referred to in Section 2. R.S., c. 438, s. 3; 1990, c. 45, s. 1; 2005, c. 28, s. 1; 2010, c. 39, s. 14.

Act binds Crown

4 (1) This Act binds Her Majesty in right of the Province.

(2) repealed 1990, c. 45, s. 2.

R.S., c. 438, s. 4; 1990, c. 45, s. 2.

Advisory Committee on Protection of Special Places

5 (1) There is hereby established a committee to be known as the Advisory Committee on the Protection of Special Places.

(2) The Committee shall be appointed by the Minister and shall be composed of

(a) one person employed by the department for which the Minister has responsibility, who is the chair of the Committee;

(b) three persons who are representative of

(i) the Department of Environment and Labour,

(ii) the Department of Tourism, Culture and Heritage, and

(iii) the Department of Natural Resources; and

(c) up to six other persons who may include persons recognized as experts in fields pertinent to this Act and persons who represent aboriginal interests.

(3) Members of the Committee may be appointed for such terms as the Minister determines.

(4) repealed 2005, c. 28, s. 2.

(5) Members of the Committee shall be eligible for re- appointment.

(6) A member of the Committee shall not receive any remuneration for being a member thereof, but shall be reimbursed for actual expenses incurred in connection therewith. R.S., c. 438, s. 5; 2005, c. 28, s. 2.

Duties and powers

6 The Committee shall be responsible to the Minister and shall have power to

(a) make recommendations to the Minister concerning the administration, classification and acquisition of special places;

(b) conduct research with respect to existing and possible future special places;

(c) recommend regulations to the Minister with respect to management plans and other matters related to ecological sites;

(d) conduct research concerning the possible removal from designation of existing special places;

(e) ensure that, if a special places designation is being considered that appears to effect the operation of some other public Act, the persons charged with the administration of that Act have the opportunity to make representations to the Committee before any recommendations are made to the Minister;

(f) do any other thing which the Minister may assign the Committee with respect to assisting him in the proper administration of this Act. R.S., c. 438, s. 6.

Designation of protected site

7 (1) The Minister, with the approval of the Governor in Council, may designate any land within the Province, including land covered with water, that has outstanding archaeological, historical or palaeontological significance as a protected site.

(2) A designation made pursuant to subsection (1) shall contain a description of the land sufficient to identify it and a copy of the designation shall be deposited in the registry of deeds for the registration district in which the land is situated.

(2A) Every designation of a protected site shall be published in one edition of the Royal Gazette and the effective date of such designation shall be the date of the publication of the aforesaid designation in the Royal Gazette.

(2B) Such publication shall contain a description of the protected site sufficient to identify the boundaries of same.

(3) The Minister may place appropriate signs or other devices at a protected site indicating that the land is a protected site, but no sign or device is required to be placed at a site.

(4) Where the land to be so designated is privately owned,

(a) the Minister shall cause notice of the intention to designate to be served upon each registered owner not less than thirty days prior to designation;

(b) the owner may comment upon the proposed designation within the period of time specified by the Minister; and

(c) no person shall be entitled to any damages for compensation for injurious affection as a result of the designation of land or land covered with water. R.S., c. 438, s. 7; 1990, c. 45, s. 3.

Termination of designation

7A (1) Where it appears to the Committee that the continued designation of land as a protected site is inappropriate, the Committee may recommend to the Minister that the designation be terminated.

(2) Before making a recommendation pursuant to subsection (1), the Committee shall give notice of the proposed recommendation in a newspaper circulating in the Province giving at least thirty days for receipt by the Committee of written submissions by the public and, where the land is privately owned, the notice shall be served on the registered owner of the land.

(3) The Committee shall not make a recommendation pursuant to subsection (1) until thirty days following the deadline for receipt of written submissions pursuant to subsection (2).

(4) Upon receipt by the Minister of a recommendation pursuant to this Section to terminate a designation, the Minister may, with the approval of the Governor in Council, terminate the designation.

(5) Where the Minister terminates the designation of land, the Minister shall cause notice of the termination to be deposited in the registry of deeds for the registration district in which the land is situate and, where the land is privately owned, to be sent to the registered owner of the land. 1990, c. 45, s. 4.

Heritage research permit

8 (1) No person shall carry out explorations or make excavations on any land in the Province, including land covered with water, for the purpose of seeking heritage objects, without a heritage research permit.

(2) The Minister, or a person authorized by the Minister, may issue heritage research permits authorizing archaeological, historical or palaeontological explorations and excavations in the Province.

(3) A heritage research permit shall be subject to the following:

(a) the application must be made on a form approved by the Minister;

(b) the applicant must be competent to conduct heritage research as proposed on the form provided;

(c) the permit holder must submit a report on the work done to the Minister within the time specified on the permit and in such detail as the Minister requires; and

(d) the permit holder must deliver possession of all heritage objects recovered, while excavating pursuant to the heritage research permit, to the Museum or to any other public institution which the Minister may designate, which objects become the property of the Province.

(4) Notwithstanding clause (d) of subsection (3), the Museum or other public institution designated by the Minister pursuant to said clause (d) may return any heritage object received to the person who recovered it, subject to such conditions as to the care and disposition of the object as the Museum or other institution, as the case may be, determines. R.S., c. 438, s. 8; 1990, c. 45, s. 5.

Effect of permit

9 A permit issued under this Act does not

(a) authorize the permit holder to enter upon lands or remove heritage objects therefrom without the consent of the owner or person entitled to grant consent; or

(b) relieve the permit holder from compliance with any enactment, regulation or law relating to excavations on land. R.S., c. 438, s. 9.

Cancellation of permit

10 The Minister may cancel a permit at any time and the permit shall, upon cancellation, cease to be in force. R.S., c. 438, s. 10.

Seizure of heritage object

11 Where a heritage object has been recovered from any site in the Province by a person who is not a holder of a permit or by a permit holder in contravention of his permit, the Minister or a person authorized by him may seize the heritage object and deliver it to the Museum, which object becomes the property of the Province. R.S., c. 438, s. 11; 1994-95, c. 17, s. 1.

Prohibition where no permit

12 Notwithstanding the issue of a licence pursuant to the Oak Island Treasure Act or the former Treasure Trove Act, no person shall

(a) excavate or otherwise alter a protected site or remove any objects from a protected site unless he is the holder of a permit;

(b) knowingly destroy, desecrate, deface or alter archaeological or historical remains or a palaeontological site whether designated or not unless he holds a heritage research permit to excavate the specific site. R.S., c. 438, s. 12; 1990, c. 45, s. 6; 2010, c. 39, s. 15.

Stop order

13 (1) When, in the opinion of the Minister, any special place, whether designated or not, is threatened with destruction by reason of commercial, industrial or other development or activity, the Minister may order the development or activity to cease in whole or in part for thirty days and, upon the recommendation of the Minister, the Governor in Council may continue the order until a site survey and, if necessary, a site investigation and salvage is carried out under the direction of the Museum.

(2) When such a development or activity is carried out by a government department or agency or a developer, the Governor in Council may require that funds be provided by that department, agency or developer to cover the costs of site survey, investigation and salvage.

(3) Where a site survey, investigation or salvage is ordered, it shall be carried out in such a manner that it will not cause undue hardship on the agency, owner or person responsible for the development or activity. R.S., c. 438, s. 13; 1990, c. 45, s. 7.

Designation of ecological site

14 (1) The Minister, with the approval of the Governor in Council, may on Crown land or on private land with the consent of the owner, including land covered with water, designate certain areas of the Province as ecological sites.

(2) The Minister may formulate a management plan for an ecological site at any time and may seek the assistance of the Committee when so doing.

(3) Every designation of an ecological site shall be published in one edition of the Royal Gazette and the effective date of such designation shall be the date of the publication of the designation in the Royal Gazette.

(4) Such publication shall contain a description of the ecological site sufficient to identify the boundaries of same.

(5) The Minister may place appropriate signs or other devices at an ecological site indicating that the land is a protected site, but no sign or device is required to be placed at a site.

(6) The ecological sites shall be designated by a description of the lands sufficient to identify them and such designation shall be registered as soon as possible by the Minister in the registry of deeds office for the registration district in which the lands are situated.

(7) Before the registration of the aforesaid designation, the Minister shall forthwith by registered mail give notice to the registered owner or owners of the lands so designated.

(8) A designation of an ecological site

(a) runs with the land to which it applies and binds all successors in title to the land or any estate in the land unless the designation is terminated pursuant to this Act; and

(b) is not affected by any tax deed conveying the land to which it applies.

(9) Subsection (8) applies to all designations of ecological sites whether made before or after the coming into force of that subsection. R.S., c. 438, s. 14; 1990, c. 45, s. 8; 2004, c. 6, s. 31; 2005, c. 28, s. 3.

Termination of designation

14A (1) Where it appears to the Committee that the continued designation of land as an ecological site is inappropriate, the Committee may recommend to the Minister that the designation be terminated.

(2) Before making a recommendation pursuant to subsection (1), the Committee shall give notice of the proposed recommendation in a newspaper circulating in the Province giving at least thirty days for receipt by the Committee of written submissions by the public and, where the land is privately owned, the notice shall be served on the registered owner of the land.

(3) The Committee shall not make a recommendation pursuant to subsection (1) until thirty days following the deadline for receipt of written submissions pursuant to subsection (2).

(4) Upon receipt by the Minister of a recommendation pursuant to this Section to terminate a designation, the Minister may, with the approval of the Governor in Council, terminate the designation.

(5) Where the Minister terminates the designation of land, the Minister shall cause notice of the termination to be deposited in the registry of deeds for the registration district in which the land is situate and, where the land is private land, to be sent to the registered owner of the land. 1990, c. 45, s. 9.

Management of designated Crown land

15 Crown lands designated as ecological sites shall be under the administration and control of the Minister. R.S., c. 438, s. 15.

Ecological research permit

16 (1) The Minister, or a person authorized by the Minister, may issue ecological research permits authorizing ecological research or other ecological activities within the designated ecological sites.

(2) Such permits so issued shall be subject to the following:

(a) an application for a permit must be made on a form approved by the Minister;

(b) the applicant must be competent to conduct ecological research or other ecological activities as proposed on the form provided;

(c) the permit holder must submit a report on the work done or activities carried on to the Minister within the time specified on the permit; and

(d) the permit may be made subject to such conditions as the Minister, or a person authorized by the Minister, may prescribe in order to protect the designated ecological site or some part thereof from any such proposed research or activities, and, if the lands are privately held, such research or activities must be carried on with the written consent of the landowner.

(3) The Minister may cancel the permit at any time and the permit shall, upon cancellation, cease to be in force. R.S., c. 438, s. 16; 1990, c. 45, s. 10.

Ecological research permit

17 After the designation of an ecological site, no person shall carry on any activity which may alter any part of the terrain or of the vegetation or carry on any acts which may disturb the fauna or the flora within the designated site, unless such person has first obtained an ecological research permit from the Minister, or a person authorized by the Minister. R.S., c. 438, s. 17; 1990, c. 45, s. 11.

Prohibition on disposal or grant of rights

18 (1) The Province, upon the designation of an ecological site upon Crown lands, and notwithstanding the provision of any other special or general statute, shall not grant, lease or otherwise dispose of lands that comprise such a site.

(2) Any grant of the Province of any rights under any other statute, including, but not so as to restrict the generality thereof, the mining rights, fishing and game rights, forestry rights and water rights, shall be forbidden on any ecological site designated and any grant purported to be made shall be null and void. R.S., c. 438, s. 18.

Restriction on expropriation

19 Notwithstanding any general or special Act, including the provisions of the Expropriation Act, no expropriation power can be exercised within the limits of a designated ecological site without the express authorization of the Minister, in addition to any other authorization necessary to carry out such expropriation power. R.S., c. 438, s. 19.

Regulations

20 (1) The Governor in Council, upon the recommendation of the Minister, may make regulations for the protection, preservation and use of special places on Crown lands and with respect to special places on private lands with the further consent of the landowner and, generally and without restricting the generality thereof, may make regulations

- (a) establishing management plans for designated ecological sites;
 - (b) for the classification of ecological sites and the uses to which each classification can be put;
 - (c) for the control of entry onto a special place and the control of activities within such places;
 - (d) respecting the control, regulation, restriction or prohibition of any kind of use, development or occupation of the land or of any of the natural resources in a special place;
 - (e) respecting the sign, plaques and markers to be placed at a special place;
 - (f) determining measures, including financial incentives, to encourage the identification, preservation and protection of special places;
 - (g) respecting generally any other matter or thing necessary or incidental to the protection of special places.
- (2) The exercise by the Governor in Council of the authority set forth in this Section shall be regulations within the meaning of the Regulations Act. R.S., c. 438, s. 20; 1990, c. 45, s. 12.

Service of notice

21 (1) Service of any notice required to be made by this Act shall be sufficient if served upon the person by registered mail at his last known address.

(2) Where a person upon whom service should be made cannot be identified or his address is not known, service shall be sufficient if notice is affixed in a conspicuous place on the land and a copy is delivered to any occupant of the land. R.S., c. 438, s. 21.

Offence and penalty

22 (1) Every person who contravenes any provision of this Act or who, being the holder of a permit, fails to comply with any term or condition of any permit issued under this Act is guilty of an offence and is liable on summary conviction to a penalty not exceeding ten thousand dollars.

(2) Where a corporation is convicted of an offence against this Act, the maximum penalty that may be imposed upon the corporation is one hundred thousand dollars and not as provided in subsection (1). R.S., c. 438, s. 22; 1990, c. 45, s. 13.

Existing designations and permits preserved

23 Notwithstanding the repeal of the former Historical Objects Protection Act, every designation made and permit issued under that Act remains good and valid. R.S., c. 438, s. 23.

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