

Provincial Parks Act

CHAPTER 367

OF THE

REVISED STATUTES, 1989

amended 1992, c. 30; 1993, c. 9, s. 7; 2007, c. 22; 2010, c. 2, s. 140

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An Act Respecting Provincial Parks

Short title

1 This Act may be cited as the Provincial Parks Act. R.S., c. 367, s. 1.

Purpose

2 (1) The purpose of this Act is to develop and operate provincial parks to

(a) provide opportunities for a wide variety of outdoor recreational opportunities ranging from relatively high intensity near-urban facilities to low intensity wildland experiences;

(b) preserve unique, rare, representative or otherwise significant elements of the natural environment and historic resources of Nova Scotia;

(c) provide opportunities for exploration, understanding and appreciation of Nova Scotia's natural and cultural heritage through interpretation, information and educational programs;

(d) provide resident travellers and out-of-Province visitors with opportunities to discover, experience and enjoy Nova Scotia's distinctive outdoor recreational and heritage resources; and

(e) assemble and maintain, within a system of provincial parks and park reserves, a land base adequate to meet present and future needs of Nova Scotians for outdoor recreation and heritage resource protection.

(2) All provincial parks are dedicated in perpetuity for the benefit of present and future generations of Nova Scotians. R.S., c. 367, s. 2.

Interpretation

3 In this Act,

(a) "bow" means a tool for projecting arrows which consists of a handle and one or more flexible limbs which are held bent by a string or cable which is drawn, pulled or released or held in a drawn position by hand or hand-held release and not by any mechanical device attached to any portion of the bow other than the bowstring;

(b) "concession" means a right granted by the Minister to operate a building, installation, service or facility within a provincial park;

- (c) "conservation officer" means a person appointed or holding office pursuant to this Act;
- (d) "Crown land" means land, whether or not covered by water, and includes an interest in land vested in Her Majesty in right of the Province;
- (e) "Department" means the Department of Lands and Forests;
- (f) "Director" means the Director of Parks and Recreation appointed pursuant to this Act;
- (g) "domestic animal" means an animal that is kept under human control or by habit or training lives in association with man;
- (h) "firearm" means a barrelled weapon from which a shot, bullet or other missile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes a frame or receiver of such a barrelled weapon and anything that can be adapted for use as a firearm and includes a bow;
- (i) "Minister" means the Minister of Lands and Forests;
- (j) "park reserve" means land set aside as park reserve land pursuant to Section 6;
- (k) repealed 1993, c. 9, s. 7.
- (l) "provincial park" means land designated pursuant to Section 8 and a provincial park continued by Section 36;
- (m) "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;
- (n) "vessel" means a means of conveyance of a kind used on water and includes an accessory to the vessel;
- (o) "wildlife" means a species of animal which is wild by nature and hence not normally dependent on man to directly provide its food, shelter or water and, where appropriate, includes wild plants. R.S., c. 367, s. 3; 1992, c. 30, s. 1; 1993, c. 9, s. 7.

Supervision of Act

4 (1) The Minister is responsible for the general supervision, administration and management of this Act and the regulations.

(2) The Minister may, from time to time, designate a person to act on behalf of the Minister. R.S., c. 367, s. 4.

Powers of Minister

5 The Minister, with the approval of the Governor in Council, may

- (a) acquire by purchase or gift, expropriate or otherwise acquire title to land, whether or not covered by water, or an interest in land for the purpose of a provincial park;
- (b) exchange Crown land for privately owned land for the purpose of a provincial park;
- (c) acquire an easement or right of way across privately owned land to gain access to or provide an exit from a provincial park; or
- (d) accept the transfer of the administration and control of land from the Government of Canada or an agency thereof. R.S., c. 367, s. 5.

Park reserves

6 (1) The Governor in Council may set aside and reserve Crown land as park reserve for the purpose of protecting those lands that have the potential to be a provincial park.

(2) The Minister may develop programs and policies deemed necessary to control and develop a park reserve.

(3) No person shall grant or transfer any Crown land constituted as a park reserve unless permitted by the regulations or authorized by the Minister.

(4) The Governor in Council may, by regulation, declare any provision of this Act or the regulations to be applicable to a park reserve as if it were a provincial park. R.S., c. 367, s. 6.

Provincial Parks Trust Fund

7 (1) There is hereby established a Provincial Parks Trust Fund for the purpose of funding programs to establish, develop and operate provincial parks throughout the Province.

(2) There shall be paid into the Provincial Parks Trust Fund

(a) money acquired by gift, donation and bequest or by disposition of any land acquired for the purpose of the Fund;

(b) income accruing to the Fund; and

(c) in accordance with the Finance Act, money that accrues from any programs of the Province, including programs conducted under agreements with other governments, entered into for any of the purposes for which the Fund is established.

(3) Real property may be donated to the Provincial Parks Trust Fund.

(4) The Minister may expend, in accordance with the Finance Act, money from the Provincial Parks Trust Fund for

(a) the acquisition of land, with the approval of the Governor in Council, for a provincial park or park reserve;

(b) the enhancement of a provincial park or park reserve;

(c) research and studies pertaining to a provincial park or park reserve. R.S., c. 367, s. 7; 2010, c. 2, s. 140.

Powers of Governor in Council

8 The Governor in Council may

(a) designate land owned, leased or otherwise acquired by Her Majesty in right of the Province as a provincial park and make such regulations as may be necessary for the control thereof;

(b) increase or decrease the size of a provincial park;

(c) terminate the status of a provincial park or any part thereof;

(d) declare the name by which a provincial park is to be known. R.S., c. 367, s. 8.

Procedure on designation

9 Where the Governor in Council designates an area of land as a provincial park, the Minister shall

(a) publish a notice containing a description of the provincial park in the Royal Gazette and in a newspaper circulating in the county or counties where the provincial park is located; and

(b) deposit a description and plan of the provincial park in the office of the registrar of deeds for the registration district in which the provincial park is located. R.S., c. 367, s. 9.

Jerry Lawrence Provincial Park

9A The Lewis Lake Provincial Park is renamed as "Jerry Lawrence Provincial Park". 2007, c. 22, s. 1.

Classification system

10 The Minister may, with the approval of the Governor in Council, develop a classification system for provincial parks. R.S., c. 367, s. 10.

Studies and research

11 The Minister may undertake studies and carry out research on matters relating to provincial parks. R.S., c. 367, s. 11.

Promotion of provincial parks

12 In an effort to promote greater public awareness and understanding of provincial parks, the Minister may

(a) promote education programs with regard to provincial parks;

(b) co-operate with the private sector and encourage an exchange of information between the public and private sectors;

(c) provide for the establishment of interpretative facilities and programs to enhance the quality of park-user experiences and their appreciation of park resources;

(d) develop promotional programs, literature and market opportunities provided in parks;

(e) encourage use of provincial parks as outdoor educational resources available to educational institutions and organized groups. R.S., c. 367, s. 12.

Powers of Minister

13 The Minister, or any person designated to act on behalf of the Minister in respect of a provincial park, may

(a) co-ordinate and implement provincial park policies and programs in co-operation with federal, provincial or municipal governments or agencies thereof or other persons;

(b) construct and operate buildings and facilities for the convenience of the public and necessary for the purposes of a provincial park;

(c) construct and operate food concessions and other facilities for the convenience of the public;

(d) construct and operate buildings, compounds and other facilities for the public display of exhibits;

(e) construct, renovate, restore, repair and improve any building, structure or site in order to preserve its historical significance;

(f) construct and operate recreation facilities that the Minister considers necessary for the convenience or benefit of the public;

(g) prescribe the use to be made of a provincial park by erecting, posting or otherwise displaying notices and signs;

- (h) initiate conferences and meetings respecting provincial parks;
- (i) declare the dates in any year when a provincial park is opened and closed to the public;
- (j) dispose of flora or fauna in a provincial park;
- (k) issue permits for scientific, historic and educational research within a provincial park;
- (l) take such measures as the Minister deems necessary to protect flora and fauna within a provincial park;
- (m) prepare a management plan to guide the long-term development and operation of a provincial park;
- (n) prohibit or regulate the cutting and removal of forest products in a provincial park;
- (o) undertake matters that may be assigned to the Minister pursuant to this Act and the regulations. R.S., c. 367, s. 13.

Prohibition

13A Notwithstanding anything contained in this Act, no person shall remove forest products from a provincial park except for the purpose of development or management of the park. 1992, c. 30, s. 2.

14 repealed 1993, c. 9, s. 7.

Personnel

15 (1) The Minister may appoint a Director of Parks and Recreation to administer and enforce this Act and the regulations.

(2) The Director, conservation officers and other persons required for the administration of this Act and the regulations shall be appointed in accordance with the Civil Service Act.

(3) Notwithstanding subsection (2), 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.

(4) A member of the Royal Canadian Mounted Police or a police officer appointed by a city, incorporated town or municipality of a county or district is by virtue of office a conservation officer pursuant to this Act and has the powers of a conservation officer.

(5) A conservation officer appointed pursuant to the Wildlife Act, the Forests Act or the Crown Lands Act is by virtue of office a conservation officer pursuant to this Act.

(6) A conservation officer, in carrying out duties pursuant to this Act and the regulations, has and may exercise in any part of the Province all the powers, authorities and immunities of a peace officer as defined in the Criminal Code (Canada).

(7) The protection afforded by this Act and any other enactment to a conservation officer extends to any other person while and to the extent that that person is in the course of assisting a conservation officer under the conservation officer's direction. R.S., c. 367, s. 15.

Oath of office

16 (1) A conservation officer, before commencing duties pursuant to this Act, shall take an oath or affirmation of office.

(2) Subsection (1) does not apply to members of the Royal Canadian Mounted Police, National Park wardens, conservation officers or peace officers who have already taken and subscribed an oath or affirmation of office.

(3) A copy of an identification card purporting to be signed by the Minister is prima facie proof in any court of law that the individual named therein is a conservation officer pursuant to this Act or the regulations without any further proof. R.S., c. 367, s. 16.

Grant of rights

17 (1) The Minister may grant a licence, privilege or concession with respect to a provincial park or any part thereof or any land, building, installation or facility therein.

(2) No licence, privilege or concession shall extend beyond five years without the approval of the Governor in Council. R.S., c. 367, s. 17.

Grant of easement

17A The Minister may, with the approval of the Governor in Council, grant an easement with respect to a provincial park or a part thereof. 1992, c. 30, s. 3.

Agreement by Minister

18 (1) The Minister may, for the effective management of provincial parks or park reserve, 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 any purpose coming within the provisions of this Act or the regulations.

(2) Without restricting the generality of subsection (1), the Minister may enter into an agreement with the owner or occupier of land adjacent to a provincial park or park reserve to manage or preserve those lands so that they complement the provincial park or park reserve.

(3) Regulations made pursuant to this Act are, if they so provide, applicable to the lands which are the subject of an agreement made pursuant to subsection (2). R.S., c. 367, s. 18; 1992, c. 30, s. 4.

Parks committee

19 The Minister may appoint a parks committee to perform such advisory functions as are considered necessary or desirable in connection with the planning and management of one or more provincial parks and establish the terms of reference and procedures for such committees. R.S., c. 367, s. 19.

Regulations respecting activities in parks

20 (1) The Governor in Council may make regulations

- (a) prescribing a zoning system within a provincial park;
- (b) prescribing activities that may or may not be carried on within a zone.

(2) The Minister may determine the boundaries of a zone within a provincial park. R.S., c. 367, s. 20.

Roads in parks

21 (1) Notwithstanding any other enactment, the Minister may

- (a) construct, maintain and administer any roads, other than a public highway, situate within a provincial park;
- (b) open or close to travel the whole or any part of any highway, road, trail or other area, except a public highway, situate within a provincial park;
- (c) control the mode of travel in a provincial park.

(2) Notwithstanding any other enactment, no road shall be built within the boundaries of a provincial park without the consent of the Minister. R.S., c. 367, s. 21.

Use of park

22 (1) Except as provided in this Act and the regulations, no person shall use or occupy any land, building, installation or facility in a provincial park or park reserve.

(2) No person acquires a right or title to land contained within a provincial park or park reserve through the use, possession or occupation of the land. R.S., c. 367, s. 22.

Regulations respecting hunting, fishing, trapping, firearms and bows

23 Notwithstanding any other enactment, the Governor in Council may make regulations

(a) prohibiting or regulating hunting, fishing and trapping in a provincial park;

(b) prohibiting or regulating the possession, discharge, use and conveyance of a firearm or bow in a provincial park. R.S., c. 367, s. 23.

Waste

24 No person shall transport garbage, refuse or domestic, hazardous or industrial waste through, over or in any provincial park or deposit such material in or on a provincial park, except as may be authorized by permit issued by the Minister. R.S., c. 367, s. 24.

Obstruction or assault

25 No person shall

(a) obstruct;

(b) cause to obstruct;

(c) incite others to obstruct; or

(d) assault,

a conservation officer while the conservation officer is exercising authority pursuant to this Act or the regulations or any person assisting that conservation officer. R.S., c. 367, s. 25.

Offences

26 (1) It is an offence for a person to refuse or fail to comply with an order, visible sign or direction of a conservation officer.

(2) It is an offence for a person to engage in an activity which is prohibited in a provincial park or park reserve by a sign or notice.

(3) It is an offence for a person to remove, deface or destroy a sign posted in a provincial park or park reserve. R.S., c. 367, s. 26.

Search and seizure without warrant

27 (1) A conservation officer, who has reasonable and probable grounds to believe that a vehicle, vessel or receptacle of any description has been used by, or is in the possession of, a person in violation of this Act or the regulations or any other enactment, if the offence is committed in a park or park reserve, may, without warrant, stop and search the vehicle, vessel or receptacle.

(2) A conservation officer may seize anything, including a vehicle or vessel, that the conservation officer believes on reasonable and probable grounds is evidence of an offence contrary to this Act or the regulations. R.S., c. 367, s. 27.

Search and seizure with warrant

28 (1) Every conservation officer who has reasonable and probable grounds to believe that a contravention of this Act or the regulations has occurred and that there is evidence of the contravention to be found in a place to be searched may, with a search warrant,

(a) enter and search the premises in or on which evidence of a contravention of this Act or the regulations is located; and

(b) seize and take possession of any article or document that may constitute evidence of a contravention of this Act or the regulations.

(2) A conservation officer shall not enter a building or other place that is actually being used as a dwelling place without a search warrant unless the occupant of the dwelling place consents to the entry. R.S., c. 367, s. 28.

Detention and disposal of item seized

29 (1) Subject to subsection (2), anything seized pursuant to this Act may be detained for a period of six months following the time of seizure or, if proceedings are instituted within the two months following seizure, until the proceedings are concluded.

(2) Anything seized pursuant to this Act shall

(a) upon application be released to the owner thereof

(i) after the expiration of two months from the date of seizure, where no proceedings have been instituted, or

(ii) after a verdict of acquittal has been handed down, where proceedings have been instituted;

(b) be returned to the owner upon the Minister ordering its return, if it is not required for evidence in a court of law;

(c) be disposed of in accordance with subsection (3), where a conviction is obtained against a person committing an offence pursuant to this Act; or

(d) be deemed to be forfeited to the Crown where, after a period of six months from the date of seizure, no application has been made and no proceedings have been instituted, in which case the Minister may dispose of the item at public auction or in any manner and at such time as the Minister considers fit.

(3) Where a judge convicts a person of an offence pursuant to this Act or the regulations, the judge shall order anything seized to be

(a) returned to the owner as soon as practicable; or

(b) forfeited to the Crown, in which case it shall be disposed of at public auction or in such manner and at such time as the Minister considers fit. R.S., c. 367, s. 29.

Arrest

30 A conservation officer may arrest without warrant a person whom the conservation officer finds committing an offence pursuant to this Act or the regulations or may arrest without a warrant a person whom the conservation officer finds, in a provincial park or park reserve, committing an offence pursuant to any enactment. R.S., c. 367, s. 30.

Order of Minister or conservation officer

31 (1) Where the Minister or a conservation officer has reasonable and probable grounds for believing that a person has violated or is about to violate this Act or the regulations, or that the entry upon or remaining within a provincial park or park reserve by any person may be detrimental to the safety of other park users or their enjoyment of the provincial park or park reserve and its facilities, the Minister or a person authorized to act on the Minister's behalf may, without notice or hearing, issue an order in writing prohibiting that person from entering upon or being within a provincial park or park reserve specified in the order for a period specified therein.

(2) Every person having knowledge of an order made pursuant to subsection (1) shall observe that order and, in the event the person is within a provincial park or park reserve when the order is made, shall leave forthwith. R.S., c. 367, s. 31.

Forfeiture of lost or abandoned property

32 (1) Any lost, mislaid or abandoned property coming into the custody of a person in charge of a provincial park or park reserve and not claimed by the owner within three months is forfeited to Her Majesty in right of the Province and may be disposed of at public auction or in such manner and at such time as the Minister considers fit .

(2) Where a person establishes to the satisfaction of the Minister within one year of the date of sale that that person was the owner of property sold pursuant to subsection (1), the Minister may direct the payment to such person of an amount equal to the price received for the property less the cost of the sale and other expenses incurred in connection with the property. R.S., c. 367, s. 32.

Prohibited behaviour in park

33 While in a provincial park or park reserve, no person shall

- (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 which is detrimental to the safety of other park users or their enjoyment of the park and its facilities;
- (e) wilfully destroy park property or trees and other natural resources;
- (f) dump or deposit garbage or other material in a provincial park other than in a receptacle so provided; or
- (g) engage in any other activity prohibited by regulation. R.S., c. 367, s. 33.

Proof

34 (1) In a prosecution for a contravention of this Act or the regulations,

(a) the existence of a sign or notice is prima face proof that the sign or notice was properly placed and maintained by the proper authorities; and

(b) evidence that the sign or notice was in existence, both before and after the conduct in question, is prima facie proof that the sign or notice was in existence at all material times,

without further proof thereof.

(2) In a prosecution for a contravention of this Act or the regulations, where an act that the accused is proven to have done is alleged to have been done in a provincial park or park reserve, the accused is, in the absence of evidence to the contrary, deemed to have done the act within the provincial park or park reserve.

(3) The Minister, or a person designated to act on the Minister's behalf, may prepare a certified copy of an order, record, permit, letter or other document, the production of which is not regarded by the Minister as being contrary to public policy, and any document purporting to be signed by the Minister or the Minister's designate shall be received as prima facie proof of the contents thereof in any court in the Province without proof of office or of the signature thereon. R.S., c. 367, s. 34.

Additional powers of court

35 In addition to a penalty imposed pursuant to the Summary Proceedings Act, the court may order a person convicted of an offence pursuant to this Act or the regulations to restore the land to a condition as near as practicable as it was before the offence was committed and pay an amount equal to twice the market value of park property which was damaged or destroyed. R.S., c. 367, s. 35.

Existing regulations and parks

36 (1) Regulations made by the Governor in Council pursuant to Chapter 244 of the Revised Statutes, 1967, remain in force until otherwise determined.

(2) All provincial parks declared pursuant to said Chapter 244 are and are deemed to be provincial parks until otherwise determined pursuant to this Act. R.S., c. 367, s. 36.

General regulations

37 (1) The Governor in Council may make regulations

- (a) for the care, preservation, improvement, control and management of provincial parks;
- (b) prohibiting or regulating the occupation of land within provincial parks;
- (c) regulating the use of lands in provincial parks;
- (d) prohibiting the erection of buildings or installations in provincial parks or regulating the nature, cost, type of construction or location of buildings or installations that may be erected therein;
- (e) prohibiting or regulating the conduct of persons using any building, installation, equipment or facility in a provincial park;
- (f) prohibiting or regulating the erection, posting or other display of notices, signs, signboards and other advertising devices in provincial parks;
- (g) prohibiting or regulating the use, setting and extinguishing of fires in provincial parks;
- (h) prohibiting or regulating pedestrian, vehicular or vessel traffic in provincial parks;
- (i) providing for the issuance of permits to persons to enter and travel in provincial parks, to occupy campsites therein or to otherwise use any land, buildings, installations or facilities within a provincial park;
- (j) prescribing the fees or rent payable for any permit given in respect of a provincial park or for any use of land, buildings, installations or facilities within a provincial park for which a permit is not required;
- (k) prohibiting or regulating trades, businesses, amusements, sports, occupations and other activities or undertakings in provincial parks;
- (l) prescribing the maximum periods of stay of persons, vehicles or vessels in a provincial park;
- (m) providing for the imposition and collection of fees for entrance into a provincial park of persons, vehicles or vessels;
- (n) prohibiting or regulating the use or keeping of domestic animals in provincial parks;

- (o) prohibiting or regulating any activity carried on within any waters contiguous to a provincial park or on the shoreline thereof, to the extent that the activity could be prohibited or regulated pursuant to this Act if carried on within the limits of the provincial park;
 - (p) respecting the removal of sand, earth, stone and other materials from a provincial park;
 - (q) respecting the use of a provincial park for agricultural purposes;
 - (r) providing for the issuance of permits for pasturing and grazing of livestock in a provincial park;
 - (s) respecting leases;
 - (t) respecting the use of vessels or water craft in a provincial park;
 - (u) for the prevention of damage to or destruction, removal or defacement of park property;
 - (v) respecting the management or preservation of areas adjacent to provincial parks;
 - (w) respecting the classification and zoning of parks;
 - (x) prescribing a minimum penalty of not less than fifty dollars and a maximum penalty of not more than one thousand dollars for an offence pursuant to the regulations;
 - (y) defining any word or expression used in this Act and not defined herein;
 - (z) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.
- (2) Any regulation made pursuant to subsection (1) may be made applicable to all provincial parks or to any provincial park or to any part of a provincial park. R.S., c. 367, s. 37.

Regulations Act

38 The exercise by the Governor in Council of the authority contained in Sections 20, 23 and 37 shall be regulations within the meaning of the Regulations Act. R.S., c. 367, s. 38.

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