

Trails Act

CHAPTER 476 OF THE REVISED STATUTES, 1989



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CHAPTER 476 OF THE REVISED STATUTES, 1989

**An Act to Provide for
Trails over Land and Water
in Nova Scotia**

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Short title

1 This Act may be cited as the *Trails Act*. R.S., c. 476, s. 1.

Purpose

2 The purpose of this Act is to

- (a) establish and operate trails on Crown lands and over water-courses for recreational use and enjoyment;
- (b) establish trails on privately owned lands, with the prior consent of the owners or occupiers;
- (c) reduce the liability of the owner or the occupier of privately owned lands where consent is given to designate a trail;
- (d) establish and operate trails, either by the Department or through agreement with persons, including municipalities, clubs, organizations and other such bodies; and

- (e) provide for effective management of trails and the regulation of trail user activities to ensure quality user experiences. R.S., c. 476, s. 2.

Interpretation

3 In this Act,

- (a) “Crown land” means Crown land under the administration and control of the Department and other lands the administration and control of which is transferred to the Department;
- (b) “Department” means the Department of Natural Resources;
- (c) “land” includes land covered with water and watercourses;
- (d) “Minister” means the Minister of Natural Resources;
- (e) “municipality” means a municipality as defined in the *Municipal Government Act*;
- (f) “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*, the *Forests Act* and the *Wildlife Act*;
- (g) “Recreational Waterways Program” means a program established by Section 11;
- (h) “special management zones” means zones established pursuant to Section 9;
- (i) “trail” means a trail designated by the Governor in Council for recreational purposes pursuant to the provisions of this Act;
- (j) “vehicle” means any 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;
- (k) “vessel” means a means of conveyance of a kind used on water and includes any accessory to the vessel;
- (l) “watercourse” means watercourse as defined in the *Water Act*. R.S., c. 476, s. 3; O.I.C. 1991-971; 1998, c. 18, s. 544; O.I.C. 2018-188; O.I.C. 2021-210; O.I.C. 2024-425.

Referral by Minister

4 The Minister may refer matters relating to parks, trails and the recreation policy of the Department 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. R.S., c. 476, s. 4; 1993, c. 9, s. 10.

Designation of trail

5 (1) The Governor in Council, upon the recommendation of the Minister, may designate a trail over Crown land or, with the written consent of the landowner or occupier, over privately owned land.

(2) When the Governor in Council designates a trail pursuant to subsection (1), the Minister shall

(a) publish, in the Royal Gazette and in a newspaper circulating in the county or counties where the trail is located, a notice containing a plan and general description of the land or watercourse affected sufficient to identify the land to the public;

(b) deposit a copy of the plan and general description in the office of the registrar of deeds for the registration district where the trail is situate;

(c) give notice to the owner or occupier of any privately owned land, if the owner is known, by serving upon the owner or by mailing by registered post to the owner at his last known address, a notice containing a plan and general description of the trail; and

(d) post signs at the usual points of access to the trail indicating that the land or watercourse is a trail.

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

(4) A general description and plan of a trail appearing to be certified by the Minister or Registrar of Crown Lands shall be received as evidence without proof of signature and the designation of land or a watercourse on a plan as a trail is *prima facie* proof that the land or watercourse so designated is a trail. R.S., c. 476, s. 5.

Acquisition of land

6 (1) For the purpose of establishing, maintaining, operating or obtaining access to a trail, the Minister may acquire by gift or, with the approval of the Governor in Council, purchase, land or an interest therein.

(2) Subsection (1) may include the acquisition of land or an interest therein along a trail for picnic, camping, boat launches or other purposes. R.S., c. 476, s. 6.

Land set aside for trail

7 Subject to any other enactment, the Minister may set aside Crown land for the purpose of a trail. R.S., c. 476, s. 7.

Designation as trail

8 To provide for canoeing, boating and other recreational activities on watercourses, the Governor in Council may designate such areas as a trail. R.S., c. 476, s. 8.

Special management zone

9 To enhance the physical appearance of the forests along a trail, to promote the long-term diversity and stability of forest ecosystems and to provide suitable habitat for wildlife, the Minister may develop special management zones on Crown land adjacent to a trail and establish similar guidelines to be developed and integrated into ongoing forest management programs to be recommended for use on privately owned lands which adjoin a trail. R.S., c. 476, s. 9.

Studies, research and educational programs

10 (1) The Minister may undertake studies and carry out research on land and watercourses in the Province to identify and evaluate their potential as outdoor and recreational heritage resources.

(2) In an effort to provide public awareness of trail opportunities, the Minister may promote educational programs and encourage the exchange of information between the public and private sectors, produce promotional literature and materials or undertake promotional programs. R.S., c. 476, s. 10.

Recreational Waterways Program

11 To encourage public use and enjoyment of select rivers and waterways, there is hereby established a Recreational Waterways Program which will

- (a) provide for recreational access to select waterways; and
- (b) provide for maintenance of the natural quality and character of those waterways. R.S., c. 476, s. 11.

Effect of consent upon owners or occupiers

12 (1) Where the owner or occupier of privately owned land gives written consent to the designation of that land as a trail, such consent shall be filed in the office of the registry of deeds for the registration district where the land is located and the consent is binding upon

- (a) the owner and all subsequent owners of the land or any estate or interest therein; or
- (b) the occupier of the land and the successors of the occupier.

(2) Notwithstanding subsection (1), where a consent is stated to be for a specified period of time, including a term in perpetuity, such consent for the time specified is binding upon

- (a) the owner and all subsequent owners of the land or any estate or interest therein; or
- (b) the occupier of the land and the successors of the occupier.

(3) Where a consent referred to in subsection (1) is given, no compensation is payable unless expressly stated otherwise in the consent. R.S., c. 476, s. 12.

Responsibilities of Minister

13 The Minister is responsible for the general supervision, construction, administration, operation and maintenance of trails pursuant to the provisions of this Act. R.S., c. 476, s. 13.

Agreements

14 (1) For the purposes of this Act, the Minister may enter into agreements with

- (a) the Government of Canada;

- (b) a province;
- (c) a municipality;
- (d) an agency of the Government of Canada, a province or a municipality;
- (e) a person;
- (f) an organization, whether incorporated or not; or
- (g) any combination thereof,

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 trail to manage or preserve that land so that it complements the trail. R.S., c. 476, s. 14.

Trails

15 (1) The Minister may take such measures as the Minister deems necessary to identify the location of a trail and mark the boundaries.

(2) The Minister may, by notice, determine the recreational use or activity on a trail or a part thereof.

(3) Where notice in writing is given by means of a sign, the sign shall be posted so that it is clearly visible in daylight and normal conditions from the approach to each usual point of access to the trail to which it applies.

(4) Evidence that a sign has been posted is *prima facie* proof that the sign has been posted pursuant to this Section.

(5) No person shall travel on a trail or a portion thereof which is closed.

(6) No person shall, while using a trail, engage in an activity which is prohibited by notice or engage in an activity other than one which is permitted.

(7) No person may use that part of a trail through a forest where the Minister has, pursuant to the *Forests Act*, closed the forests to travel. R.S., c. 476, s. 15.

Retention of traditional uses of trail

16 The designation by the Governor in Council of a trail or the prescribing by the Governor in Council of the recreational use to which a trail or parts thereof may be put does not restrict traditional or prior uses of the trail, unless prohibited by the Minister. R.S., c. 476, s. 16.

Effect of consent upon Minister and public

17 (1) Where a consent referred to in Section 12 so authorizes, upon the designation of the land referred to in the consent as a trail,

(a) a person authorized by the Minister may construct, administer, operate and maintain the trail for public recreational use; and

(b) a person may enter upon and make use of the trail for recreational purposes in accordance with this Act and the regulations.

(2) Notwithstanding any enactment, upon the designation of a trail, a person making lawful use of such trail for recreational purposes pursuant to this Act and the regulations, is not and is deemed not to be trespassing upon the land to the extent of such use. R.S., c. 476, s. 17.

Risk and duty of care

18 (1) In this Section, an owner or occupier includes the owner of an easement, right of way or irrevocable licence over the trail which may form part of the trail.

(2) A user of a trail voluntarily assumes all risks that may be encountered on the land when using a trail, whether the person is on the trail or not.

(3) Subject to subsection (4), where land has been designated as a trail, the owner or occupier of land, including the Crown, together with their agents, employees and servants, owes no duty of care towards a person who is using the land or that person's property whether that person is actually on the trail or not.

(4) The owner or occupier of land owes a duty of care to users of a trail not to create a danger with deliberate intent of doing harm or damage to the person or the person's property. R.S., c. 476, s. 18.

Arrest and detention

19 (1) A peace officer may arrest a person for an offence pursuant to the Act or the regulations and, where the offence is committed on a trail, under any other enactment, and detain that person in custody after the arrest if, on reasonable and probable grounds, the peace officer believes that the arrest and detention is necessary to

(a) prevent the continuation or repetition of the offence; or

(b) establish the identity of the person.

(2) A peace officer making an arrest without warrant shall, with reasonable diligence, take the person arrested before a judge of the provincial court to be dealt with according to law. R.S., c. 476, s. 19.

Search and seizure

20 (1) A peace officer may search without warrant a vehicle, vessel or other receptacle when the peace officer has reason to believe that it contains anything or is being used in connection with the commission of an offence pursuant to this Act or the regulations or any other enactment, if the offence is committed on a trail, and the peace officer may seize the vehicle, vessel or receptacle.

(2) A peace officer may exercise all powers of a peace officer and is a peace officer within the meaning of any enactment for the protection of peace officers. R.S., c. 476, s. 20.

Order of prohibition

21 (1) Where the Minister or a peace officer has reasonable and probable grounds to believe that a person has violated or is about to violate a provision of this Act or the regulations or that the entry upon or remaining within a trail by a person may be detrimental to the landowner or occupier or to the safety of other trail users or their enjoyment of the trail and its facilities, the Minister, or any person authorized to act on behalf of the Minister, may, without notice or hearing, issue an order in writing prohibiting that person from entering upon or being within any trail 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 trail when the order is made, shall forthwith leave the trail. R.S., c. 476, s. 21.

Prohibitions

22 No person shall, while on a trail,

- (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 trail users or their enjoyment of the trail and its facilities;
- (e) wilfully destroy trail property and other natural resources found on or adjacent to a trail;
- (f) dump or deposit garbage or other material on or from a trail other than in a receptacle so provided;
- (g) engage in any other activity prohibited by regulation. R.S.,

c. 476, s. 22.

Additional penalty

23 In addition to a penalty imposed pursuant to the *Summary Proceedings Act*, the court may order a person convicted pursuant to this Act or the regulations to restore the land 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 trail property which was damaged or destroyed. R.S., c. 476, s. 23.

Regulations

- 24 (1) The Governor in Council may make regulations
- (a) prescribing the recreational uses to which trails or parts thereof may be put;
 - (b) prohibiting uses to which trails or parts thereof may be put;

- (c) providing a detailed set of rules to allow orderly recreational use of trails;
- (d) providing standards for the design, construction, length, width, surface type, maintenance, operation and administration of trails;
- (e) providing safety, health and environmental standards with respect to trails;
- (f) prescribing fees or a schedule of fees which may be charged to users of trails;
- (g) providing for the collection of fees;
- (h) respecting the management or preservation of an area adjacent to a trail;
- (i) providing for the enforcement of this Act and any rules and regulations made with respect to trails;
- (j) providing for a Recreational Waterways Program;
- (k) prescribing a minimum penalty of not less than fifty dollars and a maximum penalty of not more than one thousand dollars for offences pursuant to the regulations;
- (l) defining any word or expression used in this Act and not defined herein;
- (m) generally with respect to all matters relating to design, establishment, construction, operation and maintenance of trails so as to minimize any conflicts with respect to the use adjoining lands may be put.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 476, s. 24.
