



## **PLEASE NOTE**

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For more information concerning the history of this Act, please see the [Table of Public Acts](#).

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## CHAPTER R-8

### RECREATION DEVELOPMENT ACT

1. In this Act	Definitions
(a) “judge” means a judge of the Supreme Court;	judge
(b) “Land Acquisition Review Board”, means the board of review constituted and appointed by the Lieutenant Governor in Council pursuant to section 20;	Land Acquisition Review Board
(c) “local council” means the council of a city, town or community and includes	local council
(i) the trustees or directors of an area improvement district, and	
(ii) in any regional administrative unit which is not within a municipality or area improvement district, the trustees of the regional administrative unit;	
(d) “Minister” means a Minister of the Crown charged by the Lieutenant Governor in Council with the administration of this Act;	Minister
(e) “person” includes firm, company, association or partnership;	person
(f) “protected area” means any area designated as a protected area pursuant to subsection 6 (1) or any part of such an area;	protected area
(g) “protected beach” means any area designated as a protected beach pursuant to subsection 6 (1) or any part of such an area;	protected beach
(h) “provincial park” means any area designated as a provincial park pursuant to subsection 6(1) or any part of such an area;	provincial park
(i) “public land” means land belonging to Her Majesty the Queen in right of the province;	public land
(j) “recreation facility” means any land, buildings, equipment, or other physical plant, whether publicly or privately owned, used to satisfy the needs or desires of people during their leisure; and	recreation facility
(k) “recreation service” means any program for the planned use of recreation facilities to satisfy the needs or desires of people during their leisure. R.S.P.E.I. 1974, Cap. R-9, s.1; 1983, c.33, s.66.	recreation service

PART I  
DEVELOPMENT OF RECREATION FACILITIES

Objects and powers  
of Minister

**2.** The Minister shall promote and encourage orderly development of recreation facilities and recreation services in the province, and for that purpose he may

- (a) subject to the approval of the Lieutenant Governor in Council, enter into agreements or contracts with regard to any matter relating to recreation in the province;
- (b) subject to the approval of the Lieutenant Governor in Council
  - (i) accept a gift of any area of land, or
  - (ii) authorize an exchange of public lands for other lands, for the purpose of creating additional provincial parks, or adding to any existing park;
- (c) plan, develop, promote, supervise, maintain and administer provincial parks and other recreation facilities including hotels, motels, tourist cabins or cottages, trailer courts, and tenting grounds developed or maintained as demonstration projects;
- (d) purchase, take on lease, hire or otherwise acquire and sell, lease or otherwise dispose of land, buildings, equipment, facilities and supplies;
- (e) make contracts and leases under which the province or any person provides recreation facilities or recreation services;
- (f) lease or otherwise acquire an easement over any land for the purpose of providing a scenic view;
- (g) employ consultants, officers and other employees to advise him or to act on his behalf, prescribe their duties, and, subject to the approval of the Lieutenant Governor in Council, fix their remuneration;
- (h) establish education programs with respect to recreation, including schools, seminars and workshops, and engage, remunerate and pay the travelling and other expenses of lecturers, leaders, instructors and other staff;
- (i) fix and collect registration and other fees from persons attending schools, seminars and workshops;
- (j) co-ordinate recreation services provided by
  - (i) the province,
  - (ii) local councils, and
  - (iii) any other persons under this Act or under any agreement, contract or lease relating to recreation in the province;
- (k) encourage the conservation of natural resources and participate in conservation programs with other public and private agencies;
- (l) inquire into and collect information on any matter affecting the development of recreation and disseminate such information as he considers to be in the public interest;

- (m) promote conferences and other meetings on matters relating to recreation; and
- (n) do such other things as the Lieutenant Governor in Council may by regulation allow. R.S.P.E.I. 1974, Cap. R-9, s.2.

**3.** (1) Subject to the approval of the Lieutenant Governor in Council, the Minister may constitute one or more boards or committees, appoint suitable persons thereto, and fix their terms of office.

Constitution of boards

(2) Subject to the regulations, if any, the Minister shall prescribe the duties of any board or committee constituted by him, and may

Duties of boards

- (a) require the board or committee to advise the Minister upon any matter relating to recreation; or
- (b) delegate to the board or committee any of the powers of the Minister under section 2. R.S.P.E.I. 1974, Cap. R-9, s.3.

**4.** A local council may

Local council powers

- (a) provide a recreation service in such manner and on such terms and conditions as it considers advisable;
- (b) establish and maintain public parks and other publicly owned recreation facilities;
- (c) enter into agreements with the province, other local councils or any other persons to provide for shared recreation facilities or shared recreation services;
- (d) expend such sums as it considers advisable, whether upon current expenses or capital works to provide, establish, maintain or support any recreation facility or recreation service authorized by this section. R.S.P.E.I. 1974, Cap. R-9, s.4.

**5.** (1) The Lieutenant Governor in Council may provide grants, scholarships or other contributions to any person to assist in the carrying out of

Grants, etc.

- (a) any education program referred to in clause 2(h);
- (b) any conservation program referred to in clause 2(k);
- (c) any recreation facility or recreation service referred to in section 4.

(2) Any grant, scholarship or other contribution made under subsection (1) shall be paid out of moneys appropriated by the Legislature for that purpose. R.S.P.E.I. 1974, Cap. R-9, s.5.

Source of funds

**6.** (1) On the recommendation of the Minister, the Lieutenant Governor in Council may

Designation

- (a) designate any area of public and private lands as a provincial park to be maintained as a public park and pleasure ground for the benefit, advantage and enjoyment of the public generally;

(b) designate any area within the province a protected area for the purpose of preserving therein objects of beauty, fossil remains, other objects, animate or inanimate, of aesthetic, educational, historical or scientific interest, or any unusual combination of elements of the natural environment having aesthetic, educational, historical or scientific interest;

(c) designate areas of land lying under tidal water or adjacent to such land as protected beaches.

Protected beach (2) An area designated as a protected beach may include the land extending seaward from mean high water mark and such land adjacent thereto whether or not covered with water as may be necessary to afford adequate protection.

Designation for several uses (3) The same area may be designated as a provincial park, a protected area, a protected beach, or any one or more of them. R.S.P.E.I. 1974, Cap. R-9, s.6.

Designation procedure **7.** (1) When an area is designated as a provincial park, protected area or protected beach, the Minister  
 (a) shall publish a notice containing a description of the area in the Gazette and in a newspaper circulated in the county or counties within which the area is situated or to which the area is contiguous;  
 (b) shall deposit a description of the designated area and may deposit a plan of the designated area in the office of the Registrar of Deeds for any county in which the area or part thereof is situated or to which the area is contiguous;  
 (c) within sixty days of the proclamation of the designation, shall give notice to any known person by serving upon the owner, or by mailing by registered post addressed to the owner at his latest known place of abode, a notice containing a description of the designated area and specifying the designation and the purposes for which it was made;  
 (d) shall post signs about the designated area indicating that it is a designated area, the purposes for which it is designated, and any restrictions upon the use thereof under this Act or the regulations.

Certificate of Minister (2) Upon completion of the duties imposed on the Minister under subsection (1), the Minister shall issue a certificate stating that the requirements of subsection (1) have been complied with.

Effect of certificate (3) Any certificate made pursuant to subsection (2) is *prima facie* evidence and proof in proceedings in any court not only that the certificate was legally made, but also that every administrative prerequisite necessary to enable the making of the certificate was done and satisfied including a compliance with the requirements of subsection

(1), and no further proof than the mere production of the original certificate or a copy thereof certified by the Minister or his authorized representative is necessary to make it such evidence and proof. R.S.P.E.I. 1974, Cap. R-9, s.7; 1975, c.23, s.1.

**8. (1) Where**

Compensation

(a) a particular use of lands within an area designated as a provincial park, protected area or protected beach is prohibited by this Act or the regulations;

(b) a person with an interest in the lands

(i) was lawfully and actually making that particular use of the lands regularly for a period of at least six months prior to the time when the use is first prohibited, or

(ii) has lawfully made improvements with respect to that particular use within six months prior to the time when the use is first prohibited; and

(c) the person who would be lawfully entitled to make that particular use of the lands delivers notice of his interest to the office of the Minister within six months after the use is first prohibited,

the Minister shall compensate the person who would be lawfully entitled to make that particular use of the lands for the loss imposed upon the use made for a period of at least six months prior to the prohibition and upon the improvements made within six months prior to the prohibition.

(2) Any person having an interest in lands in an area designated as a provincial park, may, within six months after the designation, elect to treat the designation as an expropriation of his interest in the lands by delivering to the office of the Minister a notice of the election and the Minister shall compensate the person for the value of his interest on the date of the designation.

Designation  
deemed as  
expropriation

(3) If a person elects to treat a designation as an expropriation pursuant to subsection (2), he is deemed to have abandoned any claim for compensation under subsection (1), and if he has already received any compensation under subsection (1), that compensation shall be taken into account in reduction of the compensation he would otherwise be entitled to under subsection (2).

*Idem*

(4) If a particular use of lands within an area designated as a provincial park, protected area or protected beach is prohibited by this Act or the regulations, no compensation is payable for any right to make that particular use of the lands except in an amount equal to the total of

Compensation  
particular use

(a) if a particular use of the lands has actually been made regularly for a period of at least six months prior to the time when the use is first prohibited, any decrease in the value of an interest in the lands resulting from the prohibition of that particular use; and

(b) if any improvements have been made upon the lands with respect to a particular use within six months prior to the time when the use is first prohibited, whether or not the use was being made prior to the six months period, the lesser of

- (i) any deficit between the cost of the improvements and their value after the prohibition is imposed, or
- (ii) the decrease in value of the improvements resulting from the prohibition.

Form of compensation

(5) Compensation under subsection (1) and (2) may be in any form agreed to by the Minister and the person entitled to compensation and approved by the Lieutenant Governor in Council.

Determining amount of compensation notice

(6) If the Minister and the person entitled to compensation are unable to agree upon compensation, either party may give notice in writing to the other that he requires the amount of compensation to be determined by the Land Acquisition Review Board.

Application to Land Acquisition Review Board

(7) If the notice required by subsection (6) has been given, either party may apply to the Land Acquisition Review Board to determine the amount of compensation and the Land Acquisition Review Board may appoint in writing the time and place at which he will determine the amount of compensation and give such directions for the service of the appointment, and as to the persons to be served as he deems proper.

Determination of compensation by the Land Acquisition Review Board

(8) The Land Acquisition Review Board shall determine the amount of compensation payable, and subject to the provisions of this section, the provisions of the *Arbitration Act* R.S.P.E.I. 1988, Cap. A-16 apply to the proceedings taken under this section before the Land Acquisition Review Board.

Appeal to Supreme Court

(9) An appeal lies to the Supreme Court from a decision of the Land Acquisition Review Board on questions of law.

Payment of compensation

(10) The Provincial Treasurer shall pay to any person out of the Operating Fund, any sum to which the person is entitled as compensation or for costs under this section.

Land vests in province

(11) Any interest in land for which compensation is payable under this section vests in the province upon the registration in the office of the Registrar of Deeds for the county in which the land is situated

- (a) a release of the interest in the lands by the person receiving compensation which the person shall execute upon receipt of the compensation, if compensation is determined by agreement under subsection (5); or

(b) a copy of the judgment of order of the judge which the judge shall execute if compensation is determined by him under subsection (8).

(12) Except as provided in this section, no compensation is payable for any interest in lands injuriously affected by a designation of an area as a provincial park, protected area or protected beach. R.S.P.E.I. 1974, Cap. R-9, s.8; 1983, c.1, s.6; 1986, c.5, s.2; 1993, c.29, s.4; 1997,c.20,s.3.

Limitation on  
Compensation

**9.** A designation of an area as a protected area or a protected beach does not give any person any right to use lands within the area that are not public lands if the person would not have such rights were the area not a protected area or a protected beach. R.S.P.E.I. 1974, Cap. R-9, s.9.

Designation, right  
to use land by  
public, none

**10.** No person shall use an area designated as a protected area in a manner destructive of any of the things referred to in clause 6(1)(b). R.S.P.E.I. 1974, Cap. R-9, s.10.

Use of designated  
land

**11.** No person shall  
(a) wilfully take or remove any sand, gravel or stone from a protected beach;  
(b) deface or otherwise alter a protected beach; or  
(c) deposit or cause to be deposited any refuse, cans, litter, or any other material on a protected beach, without the permission of the Minister. R.S.P.E.I. 1974, Cap. R-9, s.11.

Prohibitions

**12.** No person shall use any provincial park, protected area or protected beach in any manner contrary to any restrictions upon the use thereof that may be prescribed by the regulations. R.S.P.E.I. 1974, Cap. R-9, s.12.

Prohibitions

**13.** (1) Any person who, if it were not for this Act, would have the lawful right to do anything prohibited by section 10, 11 or 12, may apply to the Minister for permission to do anything prohibited by section 10, 11 or 12 during a period of time stated in the application.

Permission to use,  
application

(2) Subject to the regulations, if any, regarding the granting of permission by the Minister, the Minister may, upon application to him, grant permission to any person to do anything prohibited by section 10, 11 or 12 for any stated period of time in any specified designated area or part thereof. R.S.P.E.I. 1974, Cap. R-9, s.13.

Grant of permission  
by Minister

**14.** Any person who  
(a) does anything prohibited by section 10, 11 or 12 without the permission of the Minister; or  
(b) violates any other provision of this Act or the regulations,

Offences



is guilty of an offence and, where no specific penalty is imposed by the regulations, is liable on summary conviction to a fine not exceeding \$1,000. R.S.P.E.I. 1974, Cap. R-9, s.14; 1994, c.58, s.6.

## Regulations

**15.** The Lieutenant Governor in Council may make regulations

- (a) for the protection, care, management, control, maintenance and improvement of any provincial park, protected area or protected beach;
- (b) restricting the use of any provincial park, protected area or protected beach;
- (c) prescribing terms and conditions upon which the Minister may grant permission under subsection 13(2) to do anything prohibited by section 10, 11, or 12;
- (d) generally regarding the conduct of persons residing in or making use of any provincial park, protected area, or protected beach;
- (e) for the lease, for any term of years, of such parcels of land in provincial parks, protected areas and protected beaches as are considered advisable in the public interest, for public purposes, for the construction of buildings for ordinary habitation, for commercial purposes and for the accommodation of persons resorting to the provincial parks, protected areas or protected beaches;
- (f) prescribing the use and design of buildings and other structures to be erected in provincial parks, protected areas and protected beaches, and the materials of which they shall be built, and classifying buildings and fire areas;
- (g) for the control and licensing of business, trades and traffic of every description within provincial parks, protected areas and protected beaches, and levying of license fees;
- (h) for the construction, operation and maintenance of roads, parking areas, bridges, piers, fences, sidewalks, lighting plants, water works and sewers, fire protection and other public utilities within provincial parks, protected areas and protected beaches;
- (i) for the maintenance and management of provincial parks, protected areas or protected beaches;
- (j) generally for the maintenance and improvement of recreation facilities;
- (k) prescribing the application of the *Fish and Game Protection Act* R.S.P.E.I. 1988, Cap. F-12, within any provincial park, protected area, or protected beach;
- (l) prescribing the functions and duties of any board or committee constituted by the Minister under section 3, the remuneration and the payment of travelling and other expenses of the members of any such board or committee;
- (m) concerning the coordination of recreation services and the establishment of shared recreation services and recreation facilities;

- (n) prescribing the purposes for which payments of grants, scholarships or other contributions may be made under section 5, the nature of investigations to be made into applications for such payments, specifying to whom and upon what conditions such payments may be made, limiting the maximum amounts of payments, and respecting any other matter considered necessary or advisable to carry out the intent and purpose of section 5;
  - (o) respecting the exercise by the Minister of any of his powers under section 2 and authorizing the Minister to do such other things as are considered necessary and advisable to carry out the intent and purpose of this Act; and
  - (p) prescribing penalties for the violation of any regulation.
- R.S.P.E.I. 1974, Cap. R-9, s.15.

**16.** Designations of protected beaches made by the Lieutenant Governor in Council pursuant to subsection 3(1) of the *Beaches Protection Act*, 12 Elizabeth II, Chapter 2, and regulations made by the Lieutenant Governor in Council under section 10 of the *Provincial Parks Act*, 5 Elizabeth II, Chapter 25, shall be deemed to have been made under sections 6 and 15 respectively of this Act. R.S.P.E.I. 1974, Cap. R-9, s.16.

Designation and regulations deemed made under this Act

## PART II ADMINISTRATIVE PROVISIONS

**17.** In the event of a designation under Part I, the Minister with the approval of the Lieutenant Governor in Council, for the purpose of acquiring possession or title to land, may

Acquisition of possession or title to land designated

- (a) publish a notice containing the purposes for which the area is designated and containing a description of the designated area, in the Gazette and in a newspaper circulated in the county or counties within which the area is situated or to which the area is contiguous;
- (b) deposit a description of the designated area and a plan of the designated area, in the office of the Registrar of Deeds for any county in which the area or part thereof is situated or to which the area is contiguous;
- (c) post signs about the designated area indicating that it is a designated area, the purposes for which it is designated, and any restrictions upon the use thereof under this Act or the regulations;
- (d) at any time after six months have expired following the publication of the description of the area in the Gazette, and in a newspaper circulated in the county or counties in which the area is situated or to which the area is contiguous, take possession of such land and remove from possession any persons occupying or

otherwise in possession of such land. R.S.P.E.I. 1974, Cap. R-9, s.17.

Minister may take possession

**18.** In the event the Minister takes possession of land pursuant to clause 17(d), the Minister may immediately have, hold and enjoy such land as if he were the owner in fee simple of the land, and the Minister shall not be accountable to any person having an interest in or title to such land, for any act of the Minister relating to the land other than as provided in section 19, after the Minister has taken possession of the land pursuant to clause 17(d). R.S.P.E.I. 1974, Cap. R-9, s.18.

Person with interest in land, to prove interest

**19.** (1) It is incumbent on any person or persons having an interest in or claim to any land for which designation has been approved and possession taken pursuant to clause 17(d) to prove their right to the interest so claimed to have been affected by designation and removal from possession, or to prove their title in fee simple to the land, and to show cause why they should be entitled to compensation for the loss of the interest or title, and for the purpose of making a claim hereunder, a person or persons making a claim shall file with the Land Acquisition Review Board a statement of claim.

Statement of claim

(2) A statement of claim referred to in subsection (1) shall be in such form and shall contain such particulars as shall be determined by regulation. R.S.P.E.I. 1974, Cap. R-9, s.19.

Board constituted, and powers

**20.** (1) There is hereby constituted a board which shall be called the Land Acquisition Review Board, and the board may

- (a) review all claims for compensation arising under section 18 and shall adjudicate on the validity of each claim submitted to the board;
- and
- (b) establish a fair value for compensation of a loss of interest in or the title to a designated area.

Decision final and binding

(2) The decision of the board in all matters within its jurisdiction shall be final and shall be binding on all parties to the acquisition subject to a right of appeal to the Supreme Court on questions of law. R.S.P.E.I. 1974, Cap. R-9, s.20.

Composition of Board

**21.** The Land Acquisition Review Board shall be composed of three members approved by the Lieutenant Governor in Council, who shall hold office for such length of time and who shall receive such remuneration as the Lieutenant Governor in Council may determine. R.S.P.E.I. 1974, Cap. R-9, s.21.

Title clear, acceptance of claims

**22.** (1) Where the Board is satisfied that a claimant or claimants can effectively give clear title in fee simple to the interest in or title to the land subject to the designation, the Board may accept the claim or

claims, and the Board shall by registered mail notify the claimant or claimants of acceptance by the Board of their claim, and within sixty days from the date of receipt of such notice, the claimant or claimants so notified shall convey to the Minister the interest in, or title to the land subject to the designation.

(2) Where the Board notifies a claimant or claimants under subsection (1) of an acceptance of claim, the Board shall within ninety days from the date of conveyance by the claimant or claimants pursuant to subsection (1) compensate such claimant or claimants and in such sum as the Board may determine.

Compensation of claimant

(3) Where the Board is not satisfied that a clear title can be conveyed by persons who have filed claims with the Board, the Board may withhold compensation for a period which in no case shall exceed five years from the date of the first publication of the notice in the Gazette, and upon the expiration of the five year period, the Board shall review all statements of claim filed with the Board with respect to the designated land and the Board shall compensate such claimant or claimants who in the opinion of the Board have a valid claim with respect to such designated land, for the loss of his or their interest in or title to the land subject to designation at a fair value in such sum as the Board may determine. R.S.P.E.I. 1974, Cap. R-9, s.22.

Title not clear, review of claims

**23.** (1) All claims for compensation arising out of the loss of interest in or title to land subject to designation, must be received by the Board not later than five years from the date of first publication of the designation in the Gazette and no claims shall be received or considered by the Board after the expiration of such five year period.

Time limitation on filing claims

(2) Where no person or persons filing claims with the Board have conveyed or have been able to convey clear title in fee simple to the land subject to the designation and where the five year period has expired, the province shall be deemed for all intents and purposes to have, hold, and enjoy title in fee simple to the land with all the rights, privileges, easements, advantages and appurtenances thereunto, both at law and in equity, unto and to the use of the province, its successors and assigns forever. R.S.P.E.I. 1974, Cap. R-9, s.23.

Province deemed to hold in fee simple