



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# TRAILS ACT

## PLEASE NOTE

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For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## TRAILS ACT

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## TRAILS ACT

### CHAPTER T-4.1

#### 1. Definitions

In this Act

- (a) “**Minister**” means the Minister of Economic Development and Tourism;
- (b) “**trail**” means the trail designated as the Confederation Trail pursuant to subsection 4(1) and includes any other trail designated under subsection 4(2);
- (c) “**trails officer**” means a trails officer designated under section 5.1. *1994,c.62,s.1; 2000,c.5,s.3; 2004,c.23,s.1; 2010,c.31,s.3; 2015,c.28,s.3.*

#### 2. Purpose

The purpose of this Act is to provide for the establishment and operation of trails on Crown lands for recreational use and enjoyment. *1994,c.62,s.2.*

#### 3. Acquisition or setting aside of land

Subject to the provisions of the *Public Works Act* R.S.P.E.I. 1988, Cap. P-34, the Minister may acquire or set aside Crown land for the purpose of establishing a trail. *1994,c.62,s.3.*

#### 4. Confederation Trail, designation

- (1) The Lieutenant Governor in Council, upon the recommendation of the Minister, may designate a trail over Crown land to be known as “Confederation Trail”.

##### Designation of other trails

- (2) The Lieutenant Governor in Council, upon the recommendation of the Minister and after receipt of a written request from landowners or occupiers of the affected land, may designate a trail over privately owned land.

##### Duties of Minister upon designation

- (3) When the Lieutenant Governor in Council designates a trail pursuant to subsection (1) or (2), the Minister shall
  - (a) publish in the Gazette a notice containing a plan and general description of the land affected sufficient to identify the land to the public; and
  - (b) register a copy of the plan and general description of the land in the office of the Registrar of Deeds for the area in which the trail is situated,and may authorize the posting of signs at the usual points of access to the trail indicating that the land is a trail.

**Proof of sign**

- (4) Evidence that a sign has been posted is proof that a sign has been posted pursuant to subsection (3).

**Proof of designation**

- (5) A general description and plan of a trail certified by the Minister or a Registrar of Deeds shall be received as proof that the land is designated as trail without proof of signature. *1994, c.62, s.4; 2006, c.27, s.1.*

**5. Minister, responsibilities**

- (1) The Minister is responsible for the general supervision, construction, administration, operation and maintenance of the trail.

**Trail manager**

- (2) Notwithstanding subsection (1), the Minister may appoint as his or her agent a trail manager to manage the trail in accordance with the management principles set out in section 7. *1994, c.62, s.5.*

**5.1 Trails officers**

- (1) The Minister may designate persons, by notice published in the Gazette, as trails officers.

**Function**

- (2) The function of a trails officer is to enforce such requirements of this Act and the regulations as the Minister may authorize.

**Identification**

- (3) An identification card purporting to be signed by the Minister is proof that the individual named therein is a trails officer.

**Trails officers**

- (4) The following persons are trails officers by virtue of their office:
- (a) an auxiliary peace officer designated under the *Off-Highway Vehicle Act* R.S.P.E.I. 1988, Cap. O-3;
  - (b) a conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1.

**Powers**

- (5) A trails officer has no power of search or arrest.

**Tickets**

- (6) For greater certainty, a trails officer may issue tickets under the *Summary Proceedings Act* R.S.P.E.I. 1988, Cap. S-9 in respect of a contravention of this Act or the regulations.

**Right of entry**

- (7) A trails officer may, at any reasonable time and without a warrant, enter any land adjoining the trail for the purposes of enforcing this Act or the regulations.

**Obstruction**

- (8) No person shall obstruct, impede or assault a trails officer, or any person assisting a trails officer, while the trails officer is exercising his or her authority or performing a duty under



this Act or the regulations, and no person shall aid or assist any person in obstructing, impeding or assaulting a trails officer.

#### **Liability**

- (9) The Minister, the trail manager, a trails officer or other person employed or engaged in the administration or enforcement of this Act or the regulations, is not liable for any loss or damage suffered by any person as a result of any act done in good faith or omitted to be done in the course of the administration or enforcement of this Act or the regulations. *2004,c.23,s.2; 2006,c.16,s.63(11).*

### **6. Minister or trail manager, agreements**

- (1) The Minister or the trail manager may enter into agreements with the Government of Canada or an agency thereof, a municipality or a person or organization for the purpose of giving effect to the strategic management plan for the use of the trail.

#### **Agreements with adjacent landowners**

- (2) Without prejudice to subsection (1), the trail manager may enter into agreements with the owners or occupiers of land adjacent to the trail to ensure the management and preservation of that land in such manner as to complement the trail. *1994,c.62,s.6.*

### **7. Principles of management**

The trail manager shall manage the trail with respect for the following principles:

- (a) sustainable use of the trail as a public resource;
- (b) respect for, and enhancement of the unique quality of life in the province;
- (c) recognition of the needs and circumstances of properties adjacent to the trail and neighbouring communities. *1994,c.62,s.7.*

### **8. Identification**

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

#### **Uses permitted, etc. or prohibited**

- (2) The Minister may, by notice, determine the recreational uses or activities permitted on the trail or part thereof.

#### **Signs**

- (3) Where notice is given by means of a sign, the sign shall be posted so that it is clearly visible in daylight and normal conditions. *1994,c.62,s.8.*

### **9. Lawful user is not a trespasser**

- (1) A person making lawful use of the 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 that use.

#### **Assumption of risk**

- (2) A person referred to in subsection (1) is deemed to have willingly assumed all risks that may be encountered when using the trail, whether or not the person is on the trail.

**Duty not to create danger**

- (3) The duty of care of the Minister in respect of a person referred to in subsection (1) is limited to the duty not to create a danger specified in subsection 4(1) of the *Occupiers' Liability Act* R.S.P.E.I. 1988, Cap. O-2.

**No liability in respect of defect in construction etc.**

- (4) No claim for damages may be made by a person referred to in subsection (1) in respect of damage to property or bodily injury resulting from a defect in construction, improvement or maintenance of the trail. *1994, c.62, s.9.*

**10. Arrest and detention**

- (1) A peace officer may arrest a person for an offence under this Act or the regulations or for an offence committed on the 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.

**Arrest without warrant**

- (2) A peace officer making an arrest without warrant shall, with reasonable diligence, take the person arrested before a provincial court judge to be dealt with according to law. *1994, c.62, s.10; 2006, c.27, s.2.*

**11. Search and seizure**

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 the trail, and the peace officer may seize the vehicle, vessel or receptacle. *1994, c.62, s.11.*

**12. Issue of order of prohibition**

- (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 the trail by a person may be detrimental 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 the trail specified in the order for a period specified therein.

**Duty to observe order**

- (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. *1994, c.62, s.12.*

**13. Prohibition**

- (1) No person shall, while on the 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 the trail;
- (f) dump or deposit garbage or other material on or from the trail;
- (g) engage in any other activity prohibited by notice or by regulation.

**Idem**

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

**Removal of signs**

- (3) No person shall remove or deface a sign erected or posted pursuant to this Act.

**Offence and penalty**

- (4) Every person who fails to comply with or contravenes any provision of this Act or the regulations is guilty of an offence and is liable, on summary conviction, if no specific penalty is provided for the offence in this Act or the regulations, to a fine of not less than \$200 and not more than \$2,000. *1994,c.62,s.13; 2004,c.23,s.3; 2005,c.56,s.1; 2006,c.27,s.3.*

**14. Regulations**

The Lieutenant Governor in Council may make regulations

- (a) providing a detailed set of rules to allow orderly recreational use of the trail;
- (b) providing standards for the design, construction, length, width, surface type, maintenance, operation and administration of the trail;
- (c) providing, and requiring compliance with, safety, health and environmental standards with respect to the trail;
- (d) prescribing fees or a schedule of fees which may be charged to users of the trail;
- (e) providing for the collection of fees;
- (e.1) prescribing the fine or range of fines that a person is liable to, on summary conviction, where the person is found guilty of an offence for contravening a provision of the regulations;
- (f) respecting the management or preservation of an area adjacent to the trail;
- (g) prohibiting the use of certain vehicles on the trail;
- (h) prescribing signs
  - (i) to indicate the location of the trail,
  - (ii) prohibiting by means of symbols certain uses or activities on the trail;
- (i) providing for the enforcement of this Act and any rules and regulations made with respect to the trail. *1994,c.62,s.14; 2004,c.23,s.4; 2006,c.27,s.4.*