

CONSOLIDATED STATUTES OF CANADA

Canada Wildlife Act

CHAPTER W-9

An Act respecting wildlife in Canada

SHORT TITLE

Short title

1. This Act may be cited as the *Canada Wildlife Act*.

R.S., 1985, c. W-9, s. 1; 1994, c. 23, s. 2(F).

INTERPRETATION AND APPLICATION

Definitions

2. (1) In this Act,

"conveyance" « *moyen de transport* »

"conveyance" means a vehicle, aircraft or water-borne craft or any other contrivance that is used to move persons or goods;

"Minister" « *ministre* »

"Minister" means the Minister of the Environment or, in respect of any matter related to the Northern Pipeline referred to in the *Northern Pipeline Act*, the member of the Queen's Privy Council for Canada designated as the Minister for the purposes of that Act;

"public lands" « *terres domaniales* »

"public lands" means lands belonging to Her Majesty in right of Canada and lands that the Government of Canada has power to dispose of, subject to the terms of any agreement between the Government of Canada and the government of the province in which the lands are situated, and includes

(a) any waters on or flowing through the lands and the natural resources of the lands, and

(b) the internal waters and the territorial sea of Canada;

"wildlife" [Repealed, 1994, c. 23, s. 4]

Possession

(2) For the purposes of this Act,

(a) a person has anything in possession when the person has it in their personal possession or knowingly

(i) has it in the actual possession or custody of another person, or

(ii) has it in any place, whether or not that place belongs to or is occupied by the person, for their own use or benefit or for the use or benefit of another person; and

(b) where a person has anything in their custody or possession with the knowledge and consent of another person or other persons, it is in the custody and possession of each and all of them.

Aboriginal and treaty rights

(3) For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

Application

(4) The provisions of this Act respecting wildlife apply in respect of

(a) any animal, plant or other organism belonging to a species that is wild by nature or that is not easily distinguishable from such a species; and

(b) the habitat of any such animal, plant or other organism.

R.S., 1985, c. W-9, s. 2; 1994, c. 23, s. 4.

HER MAJESTY

Binding on Her Majesty

2.1 This Act is binding on Her Majesty in right of Canada or a province.

1994, c. 23, s. 5.

POWERS, DUTIES AND FUNCTIONS OF THE MINISTER

Powers of the Minister

3. The Minister may

(a) undertake, promote and recommend measures for the encouragement of public cooperation in wildlife conservation and interpretation;

(b) initiate conferences and meetings respecting wildlife research, conservation and interpretation;

(c) undertake programs for wildlife research and investigation, and establish and maintain laboratories and other necessary facilities for that purpose;

(d) establish such advisory committees as the Minister deems necessary and appoint the members of those committees; and

(e) coordinate and implement wildlife policies and programs in cooperation with the government of any province having an interest therein.

R.S., 1985, c. W-9, s. 3; 1994, c. 23, s. 6(F).

Assignment of public lands

4. (1) Where the Governor in Council is satisfied that any public lands are required for wildlife research, conservation or interpretation, the Governor in Council may assign the administration of those lands to the Minister.

Powers of Minister on public lands assigned

(2) Where the administration of any public lands has been assigned to the Minister pursuant to subsection (1), the Minister may

(a) take charge of all wildlife research facilities operated on those lands;

(b) provide advice relating to any wildlife research, conservation and interpretation being carried out on those lands;

(c) subject to the regulations, carry out measures for the conservation of wildlife on those lands not inconsistent with any law respecting wildlife in the province in which the lands are situated; and

(d) subject to the regulations, establish facilities or construct, maintain and operate works for wildlife research, conservation and interpretation on those lands.

R.S., 1985, c. W-9, s. 4; 1991, c. 50, s. 47; 1994, c. 23, s. 7.

Protected marine areas

4.1 (1) The Governor in Council may establish protected marine areas in any area of the sea that forms part of the internal waters of Canada, the territorial sea of Canada or the exclusive economic zone of Canada.

Advice and conservation measures

(2) The Minister may provide advice relating to any wildlife research, conservation and interpretation carried out in protected marine areas and may carry out measures for the conservation of wildlife in those areas.

1994, c. 23, s. 8; 1996, c. 31, s. 107.

AGREEMENTS

Agreements

5. The Minister may, with the approval of the Governor in Council, enter into an agreement with the government of any province to provide for

(a) the undertaking of wildlife research, conservation and interpretation programs and measures, the administration of lands for those purposes or the construction, maintenance and operation of facilities and works related thereto; and

(b) the payment of contributions in respect of the costs of those programs and measures.

R.S., 1985, c. W-9, s. 5; 1994, c. 23, s. 9(F).

Provisions to be included

6. Any agreement entered into pursuant to section 5 shall

(a) specify the portions, if any, of the cost of any program or measure to which the agreement relates that are payable by the Government of Canada and the government of the province or the amount of any contribution in respect of the cost of any program or measure that is payable by the Government of Canada and the time or times at which any amounts under the agreement will be paid;

(b) specify the authority that will be responsible for the undertaking, operation and maintenance of any program or measure to which the agreement relates or any part thereof;

(c) specify the proportions of the revenues from any program or measure to which the agreement relates that are payable to the Government of Canada and the government of the province; and

(d) specify the terms and conditions governing the operation and maintenance of any program or measure to which the agreement relates and the charges, if any, to be charged to persons to whom any of the benefits of the program or measure are made available.

1973-74, c. 21, s. 6.

Other agreements

7. (1) Subject to subsection (2), the Minister may enter into an agreement for the purposes set out in paragraphs 5(a) and (b) with any municipal authority or other organization or with any person, subject to the provisions of section 6, with such modifications as the circumstances require.

Provincial approval

(2) The Minister shall not conclude any agreement referred to in subsection (1) except with the approval of the government of the province in which the program or measure to which the agreement relates is to be implemented or the property to which the agreement relates is situated.

1973-74, c. 21, s. 7.

ENDANGERED WILDLIFE

Measures for protection

8. The Minister may, in cooperation with one or more provincial governments having an interest therein, take such measures as the Minister deems necessary for the protection of any species of wildlife in danger of extinction.

R.S., 1985, c. W-9, s. 8; 1994, c. 23, s. 10(F).

ACQUISITION OF LANDS

Acquisition of lands

9. (1) The Governor in Council may authorize the Minister to purchase, acquire or lease any lands or interests therein for the purpose of research, conservation and interpretation in respect of

(a) migratory birds; or

(b) with the agreement of the government of the province having an interest therein, other wildlife.

Restrictions

(2) Lands or interests therein purchased or acquired pursuant to subsection (1) shall not be disposed of, and no person shall use or occupy the lands, except under the authority of this Act or the regulations.

Sale or lease of lands

(3) The Minister may authorize the sale, lease or other disposition of lands purchased or acquired pursuant to subsection (1) if, in the opinion of the Governor in Council, the sale, leasing or other disposition is compatible with wildlife research, conservation and interpretation.

R.S., 1985, c. W-9, s. 9; 1994, c. 23, s. 11(F).

GENERAL

Property acquired by gift or bequest

10. Where Her Majesty has acquired any money, securities or other property by gift, bequest or otherwise for any purpose relating to wildlife, the Minister shall expend, administer or dispose of the money, securities or other property subject to the terms, if any, on which the money, securities or other property was given, bequeathed or otherwise made available to Her Majesty.

R.S., 1985, c. W-9, s. 10; 1994, c. 23, s. 12(F).

Wildlife officers

11. (1) The Minister may designate any person or class of persons to act as wildlife officers for the purposes of this Act and the regulations.

Designation of provincial government employees

(2) The Minister may not designate any person or class of persons employed by the government of a province unless that government agrees.

Certificate of designation

(3) Every wildlife officer must be provided with a certificate of designation as a wildlife officer in a form approved by the Minister and, on entering any place under this Act, the officer shall, if so requested, show the certificate to the occupant or person in charge of the place.

Powers of peace officers

(4) For the purposes of this Act and the regulations, wildlife officers have all the powers of a peace officer, but the Minister may specify limits on those powers when designating any person or class of persons.

Exemptions for law enforcement activities

(5) For the purpose of investigations and other law enforcement activities under this Act, the Minister may, on any terms and conditions the Minister considers necessary, exempt wildlife officers who are carrying out duties or functions under this Act, and persons acting under their direction and control, from the application of any provision of this Act or the regulations.

Obstruction

(6) When a wildlife officer is carrying out duties or functions under this Act or the regulations, no person shall

(a) knowingly make any false or misleading statement either orally or in writing to the wildlife officer; or

(b) otherwise wilfully obstruct the wildlife officer.

R.S., 1985, c. W-9, s. 11; 1994, c. 23, s. 13.

Inspections

11.1 (1) For the purpose of ensuring compliance with this Act and the regulations, a wildlife officer may, subject to subsection (3), at any reasonable time enter and inspect any place in which the officer believes, on reasonable grounds, there is any thing to which this Act or the regulations apply or any document relating to the administration of this Act or the regulations, and the wildlife officer may

(a) open or cause to be opened any container that the wildlife officer believes, on reasonable grounds, contains any such thing or document;

(b) inspect the thing and take samples free of charge;

(c) require any person to produce the document for inspection or copying, in whole or in part; and

(d) seize any thing by means of or in relation to which the wildlife officer believes, on reasonable grounds, this Act or the regulations have been contravened or that the wildlife officer believes, on reasonable grounds, will provide evidence of a contravention.

Conveyance

(2) For the purposes of carrying out the inspection, the wildlife officer may stop a conveyance or direct that it be moved to a place where the inspection can be carried out.

Dwelling-place

(3) The wildlife officer may not enter a dwelling-place except with the consent of the occupant or person in charge of the dwelling-place or under the authority of a warrant.

Warrant

(4) Where on *ex parte* application a justice, as defined in section 2 of the *Criminal Code*, is satisfied by information on oath that

(a) the conditions for entry described in subsection (1) exist in relation to a dwelling-place,

(b) entry to the dwelling-place is necessary in relation to the administration of this Act or the regulations, and

(c) entry to the dwelling-place has been refused or there are reasonable grounds for believing that entry will be refused,

the justice may issue a warrant authorizing the wildlife officer to enter the dwelling-place subject to any conditions that may be specified in the warrant.

1994, c. 23, s. 13.

Search and seizure without warrant

11.2 For the purpose of ensuring compliance with this Act and the regulations, a wildlife officer may exercise the powers of search and seizure provided in section 487 of the *Criminal Code* without a warrant if the conditions for obtaining a warrant exist but by reason of exigent circumstances it would not be feasible to obtain the warrant.

1994, c. 23, s. 13.

Custody of things seized

11.3 (1) Subject to subsections (2) and (3), where a wildlife officer seizes a thing under this Act or under a warrant issued under the *Criminal Code*,

(a) sections 489.1 and 490 of the *Criminal Code* apply; and

(b) the wildlife officer, or any person that the officer may designate, shall retain custody of the thing subject to any order made under section 490 of the *Criminal Code*.

Forfeiture where ownership not ascertainable

(2) Where the lawful ownership of or entitlement to the seized thing cannot be ascertained within thirty days after its seizure, the thing, or any proceeds of its disposition, are forfeited to

(a) Her Majesty in right of Canada, if the thing was seized by a wildlife officer employed in the public service of Canada; or

(b) Her Majesty in right of a province, if the thing was seized by a wildlife officer employed by the government of that province.

Perishable things

(3) Where the seized thing is perishable, the wildlife officer may dispose of it or destroy it, and any proceeds of its disposition must be

(a) paid to the lawful owner or person lawfully entitled to possession of the thing, unless proceedings under this Act are commenced within ninety days after its seizure; or

(b) retained by the wildlife officer pending the outcome of the proceedings.

Abandonment

(4) The owner of the seized thing may abandon it to Her Majesty in right of Canada or a province.

1994, c. 23, s. 13.

Disposition by Minister

11.4 Any thing that has been forfeited or abandoned under this Act must be dealt with and disposed of as the Minister may direct.

1994, c. 23, s. 13.

Liability for costs

11.5 The lawful owner and any person lawfully entitled to possession of any thing seized, abandoned or forfeited under this Act are jointly and severally liable for all the costs of inspection, seizure, abandonment, forfeiture or disposition incurred by Her Majesty in excess of any proceeds of disposition of the thing that have been forfeited to Her Majesty under this Act.

1994, c. 23, s. 13.

Regulations

12. The Governor in Council may make regulations

(a) prohibiting entry, generally or for any specified period or purpose, of any person on lands under the administration of the Minister or on any part of those lands;

(b) specifying the measures to be taken, in cooperation with the government of any province having an interest therein, for the protection of any species of wildlife in danger of extinction;

(c) for the implementation of the provisions of any agreement under this Act;

(d) for the preservation, control and management of lands purchased, acquired or leased pursuant to section 9;

(e) specifying the use for any purpose of any lands purchased or acquired pursuant to section 9 if that use is compatible with wildlife research, conservation and interpretation;

(f) respecting the closing of lands purchased or acquired pursuant to section 9 to persons who endanger the wildlife thereon;

(g) respecting the issuance, renewal, revocation and suspension of permits, leases, stamps and other authorizing instruments required to carry on any activity under this Act or the regulations;

(h) for charging fees for the permits, leases, stamps or other authorizing instruments and for determining the amount of the fees and the terms and conditions under which they are to be paid;

(i) prescribing measures for the conservation of wildlife

(i) on public lands the administration of which has been assigned to the Minister pursuant to subsection 4(1), or

(ii) in any protected marine areas established pursuant to subsection 4.1(1); and

(j) respecting the establishment of facilities or the construction, maintenance and operation of works for wildlife research, conservation and interpretation

(i) on public lands the administration of which has been assigned to the Minister pursuant to subsection 4(1), or

(ii) in any protected marine areas established pursuant to subsection 4.1(1).

R.S., 1985, c. W-9, s. 12; 1991, c. 50, s. 48; 1994, c. 23, s. 14.

OFFENCES AND PUNISHMENT

Contravention of Act or regulations

13. (1) Every person who contravenes subsection 11(6) or any regulation

(a) is guilty of an offence punishable on summary conviction and is liable

(i) in the case of a corporation, to a fine not exceeding \$100,000, and

(ii) in the case of an individual, to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding six months, or to both; or

(b) is guilty of an indictable offence and is liable

(i) in the case of a corporation, to a fine not exceeding \$250,000, and

(ii) in the case of an individual, to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding five years, or to both.

Subsequent offence

(2) Where a person is convicted of an offence under this Act a second or subsequent time, the amount of the fine for the subsequent offence may, notwithstanding subsection (1), be double the amount set out in that subsection.

Continuing offence

(3) A person who commits or continues an offence on more than one day is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Fines cumulative

(4) A fine imposed for an offence involving more than one animal, plant or other organism may be calculated in respect of each one as though it had been the subject of a separate information and the fine then imposed is the total of that calculation.

Additional fine

(5) Where a person has been convicted of an offence and the court is satisfied that monetary benefits accrued to the person as a result of the commission of the offence,

(a) the court may order the person to pay an additional fine in an amount equal to the court's estimation of the amount of the monetary benefits; and

(b) the additional fine may exceed the maximum amount of any fine that may otherwise be imposed under this Act.

R.S., 1985, c. W-9, s. 13; 1994, c. 23, s. 15.

Forfeiture

14. (1) Where a person is convicted of an offence, the convicting court may, in addition to any punishment imposed, order that any seized thing by means of or in relation to which the offence was committed, or any proceeds of its disposition, be forfeited to Her Majesty.

Return where no forfeiture ordered

(2) Where the convicting court does not order the forfeiture, the seized thing, or the proceeds of its disposition, must be returned to its lawful owner or the person lawfully entitled to it.

1994, c. 23, s. 15.

Retention or sale

15. Where a fine is imposed on a person convicted of an offence, any seized thing, or any proceeds of its disposition, may be retained until the fine is paid or the thing may be sold in satisfaction of the fine and the proceeds applied, in whole or in part, in payment of the fine.

1994, c. 23, s. 15.

Orders of court

16. Where a person is convicted of an offence, the court may, in addition to any punishment imposed and having regard to the nature of the offence and the circumstances surrounding its commission, make an order containing one or more of the following prohibitions, directions or requirements:

(a) prohibiting the person from doing any act or engaging in any activity that could, in the opinion of the court, result in the continuation or repetition of the offence;

(b) directing the person to take any action that the court considers appropriate to remedy or avoid any harm to any wildlife that resulted or may result from the commission of the offence;

(c) directing the person to publish, in any manner that the court considers appropriate, the facts relating to the commission of the offence;

(d) directing the person to pay the Minister or the government of a province compensation, in whole or in part, for the cost of any remedial or preventive action taken by or on behalf of the Minister or that government as a result of the commission of the offence;

(e) directing the person to perform community service in accordance with any reasonable conditions that may be specified in the order;

(f) directing the person to submit to the Minister, on application to the court by the Minister within three years after the conviction, any information respecting the activities of the person that the court considers appropriate in the circumstances;

(g) requiring the person to comply with any other conditions that the court considers appropriate for securing the person's good conduct and for preventing the person from repeating the offence or committing other offences; and

(h) directing the person to post a bond or pay into court an amount of money that the court considers appropriate for the purpose of ensuring compliance with any prohibition, direction or requirement under this section.

1994, c. 23, s. 15.

Suspended sentence

17. (1) Where a person is convicted of an offence and the court suspends the passing of sentence pursuant to paragraph 731(1)(a) of the *Criminal Code*, the court may, in addition to any probation order made under that paragraph, make an order containing one or more of the prohibitions, directions or requirements mentioned in section 16.

Imposition of sentence

(2) Where the person does not comply with the order or is convicted of another offence, within three years after the order was made, the court may, on the application of the prosecution, impose any sentence that could have been imposed if the passing of sentence had not been suspended.

1991, c. 23, s. 15; 1995, c. 22, s. 18.

Limitation period

18. (1) Proceedings by way of summary conviction in respect of an offence may be commenced at any time within, but not later than, two years after the day on which the subject-matter of the proceedings became known to the Minister.

Minister's certificate

(2) A document appearing to have been issued by the Minister, certifying the day on which the subject-matter of any proceedings became known to the Minister, is admissible in evidence without proof of the signature or official character of the person appearing to have signed the document and is proof of the matter asserted in it.

References to the Minister

(3) For the purposes of this section, a reference to the Minister includes the provincial minister responsible for the protection of wildlife in the province where the offence is alleged to have been committed.

1994, c. 23, s. 15.

TICKETABLE OFFENCES

Procedure

19. (1) In addition to the procedures set out in the *Criminal Code* for commencing a proceeding, proceedings in respect of any offence prescribed by the regulations may be commenced by a wildlife officer

(a) completing a ticket that consists of a summons portion and an information portion;

(b) delivering the summons portion to the accused or mailing it to the accused at the accused's latest known address; and

(c) filing the information portion with a court of competent jurisdiction before the summons portion has been delivered or mailed or as soon as is practicable afterward.

Content of ticket

(2) The summons and information portions of the ticket must

(a) set out a description of the offence and the time and place of its alleged commission;

(b) include a statement, signed by the wildlife officer who completes the ticket, that the officer has reasonable grounds to believe that the accused committed the offence;

(c) set out the amount of the fine prescribed by the regulations for the offence and the manner in which and period within which it may be paid;

(d) include a statement that if the accused pays the fine within the period set out in the ticket, a conviction will be entered and recorded against the accused; and

(e) include a statement that if the accused wishes to plead not guilty or for any other reason fails to pay the fine within the period set out in the ticket, the accused must appear in the court on the day and at the time set out in the ticket.

Notice of forfeiture

(3) Where a thing is seized under this Act and proceedings relating to it are commenced by way of the ticketing procedure, the wildlife officer who completes the ticket shall give written notice to the accused that, if the accused pays the fine prescribed by the regulations within the period set out in the ticket, the thing, or any proceeds of its disposition, will be immediately forfeited to Her Majesty.

Consequences of payment

(4) Where an accused to whom the summons portion of a ticket is delivered or mailed pays the prescribed fine within the period set out in the ticket,

(a) the payment constitutes a plea of guilty to the offence and a conviction must be entered against the accused and no further action may be taken against the accused in respect of that offence; and

(b) notwithstanding section 11.3, any thing seized from the accused under this Act that relates to the offence, or any proceeds of its disposition, are forfeited to

(i) Her Majesty in right of Canada, if the thing was seized by a wildlife officer employed in the public service of Canada, or

(ii) Her Majesty in right of a province, if the thing was seized by a wildlife officer employed by the government of that province.

Regulations

(5) The Governor in Council may make regulations prescribing

(a) offences in respect of which this section applies and the manner in which the offences are to be described in tickets; and

(b) the amount of the fine for a prescribed offence, but the amount may not exceed \$1,000.

1994, c. 23, s. 15. AMENDMENT NOT IN FORCE

— **1992, c. 47, s. 84 (Sch.), as amended by 1994, c. 23, s. 16:**

16. Section 19 and the heading before it are repealed.