



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **TRAILS ACT**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to February 19, 2022. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

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)).

If you find any errors or omissions in this consolidation, please contact:

*Legislative Counsel Office*  
*Tel: (902) 368-4292*  
*Email: [legislation@gov.pe.ca](mailto:legislation@gov.pe.ca)*



## TRAILS ACT

### Table of Contents

Section	Page
<b>PART 1 - INTERPRETATION</b>	<b>5</b>
1. Definitions.....	5
2. Purpose.....	6
3. Acquisition or setting aside of land.....	6
<b>PART 2 - CONFEDERATION TRAIL AND OTHER TRAILS</b>	<b>6</b>
4. Confederation Trail, designation.....	6
4.1 Consent to be filed .....	7
<b>PART 3 - DESIGNATION OF TRAIL CROSSINGS</b>	<b>7</b>
4.2 Designation .....	7
<b>PART 4 - RESPONSIBILITIES OF MINISTER</b>	<b>8</b>
5. Minister, responsibilities .....	8
5.1 Trails officers .....	9
<b>PART 5 - AGREEMENTS, STRATEGIC MANAGEMENT PLAN</b>	<b>9</b>
6. Agreements .....	9
6.1 Strategic management plan .....	10
6.2. Consultation .....	10
7. Public access to information .....	11
<b>PART 6 - GENERAL</b>	<b>11</b>
8. Posting of signs .....	11
9. Lawful user is not a trespasser .....	11
10. Arrest and detention .....	12
11. Search and seizure.....	12
12. Issue of order of prohibition.....	12
<b>PART 7 - PROHIBITIONS</b>	<b>13</b>
13. Prohibition.....	13
14. Regulations .....	13





## TRAILS ACT

### CHAPTER T-4.1

## PART 1 - INTERPRETATION

### 1. Definitions

In this Act

- (a) **“active transportation pathway”** means a trail that provides a means of transportation and recreation for multiple types of users, including
- (i) pedestrians,
  - (ii) bicyclists,
  - (iii) persons in wheelchairs,
  - (iv) power-assisted bicycle users, and
  - (v) motorized mobility aid users;
- (b) **“Confederation Trail”** means the greenway designated by the Lieutenant Governor in Council as the Confederation Trail pursuant to subsection 4(1);
- (c) **“greenway”** means a type of trail reserved for recreational use and enjoyment;
- (d) **“Minister”** means the Minister of Transportation and Infrastructure;
- (e) **“motorized mobility aid”** means a device that is specifically manufactured or modified for operation by a person with a mobility impairment and that
- (i) has a maximum speed capability of not more than 15 kilometres per hour,
  - (ii) has a maximum width of not more than 81.2 centimetres, and
  - (iii) has a maximum mass of not more than 226 kilograms,
- and includes a motorized electric wheelchair, medical scooter or a device approved by the Registrar;
- (f) **“plan”** means the strategic management plan established by the Minister pursuant to subsection 6.1(1);
- (g) **“power-assisted bicycle”** means a power-assisted bicycle as defined in clause 1(1)(d) of the *Highway Traffic Act* Power-Assisted Bicycles Regulations (EC557/21);
- (h) **“Registrar”** means the Registrar of Motor Vehicles referred to in section 4 of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5;
- (i) **“trail”** includes
- (i) the Confederation Trail,
  - (ii) an active transportation pathway,
  - (iii) a greenway, and
  - (iv) any other trail designated by the Lieutenant Governor in Council pursuant to subsection 4(2);

- (j) **“trail crossing”** means a portion of the Confederation Trail designated by the Minister pursuant to subsection 4.2(1) that connects the Confederation Trail with other trails subject to the restrictions and conditions specified in the designation and this Act;
- (k) **“trail manager”** means the trail manager appointed by the Minister pursuant to subsection 5(2);
- (l) **“trails officer”** means a trails officer designated by the Minister pursuant to subsection 5.1(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; 2019,c.1,s.3; 2021,c.47,s.2.*

## 2. Purpose

- (1) The purposes of this Act are
  - (a) to provide for the establishment and operation of the Confederation Trail on Crown land for recreational use and enjoyment;
  - (b) to provide for the establishment and operation of other trails for recreational use and enjoyment;
  - (c) to increase awareness about and encourage the public use of the Confederation Trail and other trails;
  - (d) to improve trail connectivity within and among communities and between key destinations across the province;
  - (e) to protect the Confederation Trail and other trails as sustainable public resources; and
  - (f) to recognize the contributions the Confederation Trail and other trails make to the health and well-being and quality of life of the citizens of the province.

### Best Practices

- (2) The Minister may establish best practices to further the purposes of this Act. *1994,c.62,s.2; 2021,c.47,s.3.*

## 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 the Confederation Trail and other trails. *1994,c.62,s.3; 2021,c.47,s.4.*

## PART 2 - CONFEDERATION TRAIL AND OTHER TRAILS

### 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, may designate a trail over Crown land or, with the written consent of the landowner, over privately owned land.

#### Duties of Minister upon designation

- (3) On and after the coming into force of this subsection, where the Lieutenant Governor in Council designates a trail pursuant to subsection (1) or (2), the Minister shall

- (a) publish in the Gazette and in a newspaper circulating in the county or counties where the Confederation Trail or other trail, as the case may be, is located, a notice containing a survey plan and general description of the land affected sufficient to identify the land to the public;
- (b) register a copy of the survey plan and general description of the land in the office of the Registrar of Deeds for the area where the Confederation Trail or other trail, as the case may be, is located;
- (c) give notice to the owner of any privately owned land who has given consent pursuant to subsection (2), by serving upon the owner or by mailing by registered mail to the owner at the owner's last known address, a notice containing a survey plan and general description of the trail; and
- (d) post signs at the usual points of access to a trail, indicating that the land is the Confederation Trail or other trail, as the case may be.

**Proof of sign**

- (4) Evidence that a sign has been posted is proof, in the absence of evidence to the contrary, that the sign has been posted pursuant to subsection (3).

**Proof of designation**

- (5) A general description and survey plan of the Confederation Trail or other trail certified by the Minister or a Registrar of Deeds shall be received as proof that the land is designated as the Confederation Trail or other trail, as the case may be, without proof of signature. *1994,c.62,s.4; 2006,c.27,s.1; 2021,c.47,s.6.*

**4.1 Consent to be filed**

- (1) Where the owner of privately owned land gives written consent to the designation of a trail over that land, the written consent shall be filed in the office of the Registrar of Deeds for the area where the land is located.

**No compensation**

- (2) Where consent is given pursuant to subsection (1), no compensation is payable unless expressly stated otherwise in the consent. *2021,c.47,s.7.*

## PART 3 - DESIGNATION OF TRAIL CROSSINGS

**4.2 Designation**

- (1) On and after the coming into force of this section, the Minister may, by notice published in the Gazette, designate a portion of the Confederation Trail as a trail crossing for the purposes of this Act and the regulations.

**Period of designation**

- (2) The Minister may specify that a designation of a trail crossing is for a definite period of time, including a term in perpetuity.

**Amend, vary, cancel**

- (3) The Minister may at any time amend, vary or cancel a designation of a trail crossing.

**Restrictions, conditions**

- (4) The Minister may specify restrictions and conditions in a designation of a trail crossing.

**Distance between crossings**

- (5) Where a trail crossing is designated pursuant to subsection (1), the trail crossing shall not be within 15 kilometres of any other new or existing trail crossing.

**Posting of signs**

- (6) The Minister shall post signs at the usual points of access to a trail crossing indicating that the land is a trail crossing.

**Publication of designation**

- (7) The Minister shall ensure that a notice of a designation of a trail crossing and of an amendment, a variation or cancellation of a designation of a trail crossing is published in not less than two consecutive issues of the Gazette within 21 days after the designation, amendment, variation or cancellation is made.

**Publication in newspaper**

- (8) Notwithstanding subsection (7), where
- (a) a designation of a trail crossing or an amendment, a variation or cancellation of a designation of a trail crossing is for a period of less than 30 days; or
  - (b) a cancellation of a designation of a trail crossing takes place less than 30 days after the designation is made,

the Minister shall ensure that a notice of the designation of a trail crossing or of the amendment, variation or cancellation of the designation of a trail crossing, as the case may be, is published in at least two daily or weekly newspapers in circulation in the province within 14 days after the designation, amendment, variation or cancellation is made.  
*2021,c.47,s.7.*

## PART 4 - RESPONSIBILITIES OF MINISTER

### 5. Minister, responsibilities

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

**Trail manager**

- (2) Notwithstanding subsection (1), the Minister may appoint as the Minister's agent a trail manager to manage the Confederation Trail and other trails in accordance with the management principles set out in the plan established under subsection 6.1(1).

**Closing trail**

- (3) The Minister may, by notice published in accordance with subsection (4), close the Confederation Trail or other trail, or a portion of the Confederation Trail or other trail, as the case may be, where the Minister believes it is in the public interest to do so.

**Notice of closure**

- (4) Where the Minister closes the Confederation Trail or other trail or a portion of the Confederation Trail or other trail pursuant to subsection (3), the Minister shall ensure that a notice of closure is published in at least two daily or weekly newspapers in circulation in the province within 14 days after the closure is made. 1994,c.62,s.5; 2021,c.47,s.9.

**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 Confederation Trail or other 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); 2021, c.47, s.10.*

**PART 5 - AGREEMENTS, STRATEGIC MANAGEMENT PLAN**

**6. Agreements**

- (1) 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.

**Agreement with owner**

- (2) Without restricting the generality of subsection (1), the Minister may enter into agreements with the owners of privately owned land adjacent to the Confederation Trail or other trails to manage or preserve that land so that it complements the Confederation Trail and other trails. *1994, c.62, s.6; 2021, c.47, s.11.*

**6.1 Strategic management plan**

- (1) The Minister shall establish and maintain a strategic management plan
  - (a) that sets out strategic directions and targets for the establishment, management, promotion and use of the Confederation Trail and other trails in the province; and
  - (b) that is guided by the vision of a province that has a world-class system of diversified trails that are planned and used in an environmentally responsible manner, and that enhance the health and well-being of all citizens of the province.

**Periodic review - progress reports**

- (2) Where the Minister establishes a strategic management plan pursuant to subsection (1), the Minister
  - (a) shall conduct a review of the plan; and
  - (b) shall prepare reports respecting the progress made in implementing the plan,at such times as the Minister considers necessary or advisable.

**Requirement for initial report**

- (3) The Minister shall prepare an initial report pursuant to clause (2)(b) not later than 24 months after the date this section comes into force. *2021, c.47, s.11.*

**6.2. Consultation**

- (1) In the course of reviewing the plan or establishing best practices to further the purposes of this Act, the Minister shall
  - (a) consult with any person and entities the Minister considers appropriate;
  - (b) consider any government policies and programs that affect or relate to the Confederation Trail or other trails in the province,
    - (i) that the Minister believes are appropriate to consider, or
    - (ii) that the Minister has been advised by another Minister are relevant.

**Legislation and policies**

- (2) The Minister shall ensure that the plan and any established best practices are not inconsistent with provincial legislation or Government policies that affect or relate to the Confederation Trail and other trails. *2021, c.47, s.11.*

**7. Public access to information**

The Minister shall publish the following on a Government website:

- (a) the location of the Confederation Trail and the name, if any, and location of every other trail designated by the Lieutenant Governor in Council under section 4;
- (b) the location of trail crossings designated by the Minister under section 4.2;
- (c) the location of active transportation pathways;
- (d) the plan established under subsection 6.1(1);
- (e) progress reports required under subsections 6.1(2) and (3);
- (f) best practices, if any are established under subsection 2(2). *1994,c.62,s.7; 2021,c.47,s.11.*

**PART 6 - GENERAL****8. Posting of signs**

- (1) For the purposes of identifying the location of the Confederation Trail and other trails, and to administer, control and operate the Confederation Trail and other trails, the Minister
  - (a) shall post, erect and maintain signs on the Confederation Trail and other trails; or
  - (b) may remove signs posted or erected on the Confederation Trail or other trails.

**In accordance with the regulations**

- (2) The signs referred to in subsection (1) shall be in accordance with, and shall be posted, erected, maintained and removed in accordance with, the regulations.

**Permitted uses**

- (3) The Minister may post or erect signs specifying the recreational uses or activities permitted on the Confederation Trail or other trails.

**Clearly visible**

- (4) The Minister shall ensure that signs posted or erected pursuant to this section are clearly visible in daylight and under normal atmospheric conditions from the approach to each usual point of access to the Confederation Trail or other trail.

**Proof of posting**

- (5) Evidence that a sign has been posted is proof, in the absence of evidence to the contrary, that the sign has been posted pursuant to this section.

**Prohibition - signs**

- (6) No person shall tear down, remove, damage, cover, deface or alter a sign posted or erected pursuant to this section unless doing so under the authority of subsection (1).

**Prohibition - travel**

- (7) No person shall travel on the Confederation Trail or any other trail in contravention of a sign posted or erected pursuant to this section. *1994,c.62,s.8; 2021,c.47,s.12.*

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

- (1) A person making lawful use of the Confederation Trail or other 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 on the land when using the Confederation Trail or other trail, whether or not the person is on the Confederation Trail or other 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 Confederation Trail or other trail. *1994, c.62, s.9; 2021, c.47, s.13.*

**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 Confederation Trail or other 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; 2021, c.47, s.14.*

**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 Confederation Trail or other trail, and the peace officer may seize the vehicle, vessel or receptacle. *1994, c.62, s.11; 2021, c.47, s.15.*

**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 Confederation Trail or other trail by a person may be detrimental to the safety of other trail users or their enjoyment of the Confederation Trail or other 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 Confederation Trail or other 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 the Confederation Trail or other trail when the order is made, that person shall immediately leave. *1994, c.62, s.12; 2021, c.47, s.16.*

**PART 7 - PROHIBITIONS****13. Prohibition**

- (1) No person shall, while on the Confederation Trail or other trails,
- (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 that is detrimental to the safety or enjoyment of other users of the Confederation Trail or other trails;
  - (e) wilfully destroy property or other natural resources found on or adjacent to the Confederation Trail or other trails;
  - (f) dump or deposit garbage or other unwanted material; or
  - (g) engage in any other activity prohibited by notice or the regulations.

**Prohibition - closure**

- (2) No person shall travel on the Confederation Trail or other trails or on any portion of them that is closed.

**Removal of signs**

- (3) Repealed by 2021,c.47,s.17.

**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; 2021,c.47,s.17.*

**14. Regulations**

The Lieutenant Governor in Council may make regulations

- (a) providing a detailed set of rules to allow orderly recreational use of the Confederation Trail and other trails;
- (a.1) respecting the recreational uses or activities permitted on the Confederation Trail and other trails;
- (a.2) respecting the uses or activities prohibited on the Confederation Trail and other trails;
- (b) providing standards for the design, construction, length, width, surface type, maintenance, operation and administration of the Confederation Trail and other trails;
- (c) providing, and requiring compliance with, safety, health and environmental standards with respect to the Confederation Trail and other trails;
- (d) prescribing fees or a schedule of fees which may be charged to users of the Confederation Trail and other trails;
- (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 Confederation Trail and other trails;

- (g) prohibiting the use of certain types of vehicles on the Confederation Trail and other trails;
- (g.1) exempting certain types of vehicles from the application of this Act;
- (h) prescribing signs
  - (i) to indicate the location of the Confederation Trail and other trails,
  - (ii) prohibiting by means of symbols certain uses or activities on the Confederation Trail and other trails;
- (h.1) respecting the standards to be met for signs to be posted, erected and maintained on, or removed from, the Confederation Trail and other trails;
- (i) providing for the enforcement of this Act and any rules and regulations made with respect to the Confederation Trail and other trails;
- (j) defining any term used but not defined in this Act; and
- (k) respecting any matter necessary or advisable to carry out effectively the intent and purposes of this Act. *1994, c.62, s.14; 2004, c.23, s.4; 2006, c.27, s.4; 2021, c.47, s.18.*