



Department of Justice

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Navigable Waters Protection Act

R.S.C., 1985, c. N-22

An Act respecting the protection of navigable waters

SHORT TITLE

Short title

1. This Act may be cited as the *Navigable Waters Protection Act*.

R.S., c. N-19, s. 1.

INTERPRETATION

Definitions

2. In this Act,

“Minister”

« *ministre* »

“Minister” means the Minister of Transport;

“navigable water”

« *eaux navigables* »

“navigable water” includes a canal and any other body of water created or altered as a result of the construction of any work.

R.S., c. N-19, s. 2.

PART I

WORKS SUBJECT TO APPROVAL

INTERPRETATION

Definitions

3. In this Part,

“lawful work”

« *ouvrage légalement construit* »

“lawful work” means any work not contrary to the law in force at the place of construction of the work at the time of its construction;

“owner”

« *propriétaire* »

“owner” includes a person authorizing or otherwise responsible for the erection or maintenance of any work and an actual or reputed owner or person in possession or claiming ownership thereof for the time being;

“work”

« *ouvrages* »

“work” includes

- (a) any bridge, boom, dam, wharf, dock, pier, tunnel or pipe and the approaches or other works necessary or appurtenant thereto,
- (b) any dumping of fill or excavation of materials from the bed of a navigable water,
- (c) any telegraph or power cable or wire, or
- (d) any structure, device or thing, whether similar in character to anything referred to in this definition or not, that may interfere with navigation.

R.S., c. N-19, s. 3.

APPLICATION

Extent to which inapplicable to statutory works

4. Except the provisions of this Part that relate to rebuilding, repairing or altering any lawful work, nothing in this Part applies to any work constructed under the authority of an Act of Parliament or of the legislature of the former Province of Canada, or of the legislature of any province now forming part of Canada passed before that province became a part thereof.

R.S., c. N-19, s. 4.

GENERAL

Construction of works in navigable waters

5. (1) No work shall be built or placed in, on, over, under, through or across any navigable water unless

- (a) the work and the site and plans thereof have been approved by the Minister, on such terms and conditions as the Minister deems fit, prior to commencement of construction;
- (b) the construction of the work is commenced within six months and completed within three years after the approval referred to in paragraph (a) or within such further period as the Minister may fix; and
- (c) the work is built, placed and maintained in accordance with the plans, the regulations and the terms and conditions set out in the approval referred to in paragraph (a).

Exceptions

(2) Except in the case of a bridge, boom, dam or causeway, this section does not apply to any work that, in the opinion of the Minister, does not interfere substantially with navigation.

R.S., c. N-19, s. 5.

Ministerial orders respecting unauthorized works

6. (1) Where any work to which this Part applies is built or placed without having been approved by the Minister, is built or placed on a site not approved by the Minister, is not built or placed in accordance with plans so approved or, having been so built or placed, is not maintained in accordance with those plans and the regulations, the Minister may

- (a) order the owner of the work to remove or alter the work;
- (b) where the owner of the work fails forthwith to comply with an order made pursuant to paragraph (a), remove and destroy the work and sell, give away or otherwise dispose of the materials contained in the work; and
- (c) order any person to refrain from proceeding with the construction of the work where, in

the opinion of the Minister, the work interferes or would interfere with navigation or is being constructed contrary to this Act.

Offence and punishment

(2) Any owner or person who fails to comply with an order given to that owner or person pursuant to paragraph (1)(a) or (c) is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars.

Costs of removal, destruction or disposal

(3) Where the Minister removes, destroys or disposes of a work pursuant to paragraph (1)(b), the costs of and incidental to the operation of removal, destruction or disposal, after deducting therefrom any sum that may be realized by sale or otherwise, are recoverable with costs in the name of Her Majesty from the owner.

Approval after construction commenced

(4) The Minister may, subject to deposit and advertisement as in the case of a proposed work, approve a work and the plans and site of the work after the commencement of its construction and the approval has the same effect as if given prior to commencement of the construction of the work.

R.S., c. N-19, s. 6.

Fee payable by person applying for approval

7. (1) Where a person applies for an approval referred to in paragraph 5(1)(a) or subsection 6(4), the person shall pay a fee therefor prescribed by the regulations.

Approval valid for period prescribed by regulations

(2) Where the Minister has approved a work, the approval is valid for a period of time prescribed by the regulations.

R.S., c. N-19, s. 6.

Bridges prior to May 17, 1882 maintained

8. Sections 5 to 7 do not affect any bridge constructed before May 17, 1882 that, after that date, requires to be rebuilt or repaired, if the bridge, when so rebuilt or repaired, does not interfere to a greater extent with navigation than on or before that date.

R.S., c. N-19, s. 7.

Deposit of plans and description

9. (1) A local authority, company or person proposing to construct, in navigable waters, any work for which no sufficient sanction otherwise exists may deposit the plans thereof and a description of the proposed site with the Minister, and a duplicate of each in the office of the registrar of deeds or the land titles office for the district, county or province in which the work is proposed to be constructed, and may apply to the Minister for approval thereof.

(2) [Repealed, 1993, c. 41, s. 8]

Notice of deposit

(3) The local authority, company or person referred to in subsection (1) shall give one month's notice of the deposit of plans and application by advertisement in the *Canada Gazette*, and in two newspapers published in or near the locality where the work is to be constructed.

R.S., 1985, c. N-22, s. 9; 1993, c. 41, s. 8.

Rebuilding or repair of lawful work

10. (1) Any lawful work may be rebuilt or repaired if, in the opinion of the Minister,

interference with navigation is not increased by the rebuilding or repairing.

Alteration of lawful work

(2) Any lawful work may be altered if

(a) plans of the proposed alteration are deposited with and approved by the Minister; and

(b) in the opinion of the Minister, interference with navigation is not increased by the alteration.

Plans deemed to include alteration

(3) For the purposes of sections 5, 6 and 12, a reference to the plans of a work shall be construed as including the plans of the alteration thereof referred to in subsection (2).

Where work endangers or interferes with navigation

(4) Where, in the opinion of the Minister, an existing lawful work has become a danger to or an interference with navigation by reason of the passage of time and changing conditions in navigation of the navigable waters concerned, any rebuilding, repair or alteration of the work shall be treated in the same manner as a new work.

R.S., c. N-19, s. 9.

Where approval lapses

11. (1) Where an approval of a work granted pursuant to paragraph 5(1)(a) or subsection 6(4) lapses, the Minister may grant a new approval of that work for such period of time as, having regard to changing conditions in navigation and the condition of the work, the Minister deems fit.

Where application made for new approval

(2) Where an application is made for a new approval of a work pursuant to subsection (1), the work remains a lawful work pending the decision of the Minister in respect of the application.

R.S., c. N-19, s. 9.

REGULATIONS

Orders and regulations by Governor in Council

12. (1) The Governor in Council may make such orders or regulations as the Governor in Council deems expedient for navigation purposes respecting any work to which this Part applies or that is approved or the plans and site of which are approved under any Act of Parliament and, without restricting the generality of the foregoing, may make regulations

(a) prescribing the fees payable to the Minister on an application for an approval; and

(b) prescribing, for the purpose of subsection 7(2), the period of time for which an approval of a work is valid.

Punishment for contravening order or regulation

(2) Any order or regulation made under this section may prescribe therein the punishment to be imposed on summary conviction for any contravention thereof but that punishment shall not exceed a fine of five hundred dollars or imprisonment for a term of six months or both.

Who is subject to orders or regulations

(3) A local authority, company or person constructing, owning or in possession of any work referred to in subsection (1) is subject to orders or regulations made under this section.

R.S., c. N-19, s. 10.

No approval of St. Lawrence bridges

13. No approval of the site or plans of any bridge over the St. Lawrence River shall be given under this Part.

R.S., c. N-19, s. 11.

PART II

OBSTACLES AND OBSTRUCTIONS

INTERPRETATION

Definitions

14. In this Part,

“owner”

« *propriétaire* »

“owner” means the registered or other owner at the time any wreck, obstruction or obstacle referred to in this Part was occasioned, and includes a subsequent purchaser;

“vessel”

« *bateau* »

“vessel” includes every description of ship, boat or craft of any kind, whether propelled by steam or otherwise and whether used as a sea-going vessel or on inland waters only, including everything forming part of its machinery, tackle, equipment, cargo, stores or ballast.

R.S., c. N-19, s. 12.

GENERAL

Notice and indication of obstacle or obstruction

15. (1) Where the navigation of any navigable water over which Parliament has jurisdiction is obstructed, impeded or rendered more difficult or dangerous by reason of the wreck, sinking, partial sinking, lying ashore or grounding of any vessel or part thereof or other thing, the owner, master or person in charge of the vessel or other thing by which any such obstruction or obstacle is caused shall

(a) forthwith give notice of the existence thereof to the Minister or to the chief officer of customs and excise at the nearest or most convenient port; and

(b) place and, as long as the obstruction or obstacle continues, maintain, by day, a sufficient signal and, by night, a sufficient light to indicate the position thereof.

Failure to signal and light rectifiable by Minister

(2) The Minister may cause the signal and light referred to in subsection (1) to be placed and maintained if the owner, master or person in charge of the vessel or other thing by which the obstruction or obstacle is caused fails or neglects to do so.

Removal of obstruction or obstacle

(3) The owner of the vessel or thing referred to in subsection (1) shall forthwith begin the removal thereof and shall prosecute the removal diligently to completion, but nothing in this subsection shall be deemed to limit the powers of the Minister under this Act.

R.S., 1985, c. N-22, s. 15; R.S., 1985, c. 1 (2nd Supp.), s. 213.

Powers of Minister

16. If, in the opinion of the Minister,

(a) the navigation of any navigable water over which Parliament has jurisdiction is obstructed, impeded or rendered more difficult or dangerous by reason of the wreck, sinking, partial sinking, lying ashore or grounding of any vessel or part thereof or other thing,

(b) by reason of the situation of any wreck, vessel or part thereof or other thing so lying, sunk, partially sunk, ashore or grounded, the navigation of any such navigable water is likely to be obstructed, impeded or rendered more difficult or dangerous, or

(c) any vessel or part thereof, wreck or other thing cast ashore, stranded or left on any property belonging to Her Majesty in right of Canada is an obstacle or obstruction to such use of that property as may be required for the public purposes of Canada,

the Minister may cause the wreck, vessel or part thereof or other thing to be removed or destroyed, in such manner and by such means as the Minister thinks fit, if the obstruction, obstacle, impediment, difficulty or danger continues for more than twenty-four hours.

R.S., c. N-19, s. 14.

Conveyance from site and sale

17. (1) The Minister may cause the vessel referred to in section 16 or its cargo, or anything causing or forming part of the obstruction or obstacle, to be conveyed to such place as the Minister thinks proper and to be there sold by auction or otherwise as he deems advisable, and the Minister may apply the proceeds of the sale to make good the expenses incurred by the Minister in placing and maintaining any signal or light to indicate the position of the obstruction or obstacle, or in the removal, destruction or sale of the vessel, cargo or thing.

Surplus

(2) The Minister shall pay over any surplus of the proceeds referred to in subsection (1) or of any portion of the proceeds to the owner of the vessel, cargo or thing sold or to such other persons as are entitled thereto.

R.S., c. N-19, s. 15.

Costs constituting debt

18. (1) When, pursuant to this Part, the Minister has

(a) caused to be placed and maintained any signal or light to indicate the position of any vessel or part thereof or other thing that, by reason of its wreck, sinking, partial sinking, lying ashore or grounding, caused or was likely to cause the navigation of any navigable water over which Parliament has jurisdiction to become obstructed, impeded or rendered more difficult or dangerous,

(b) caused to be removed or destroyed any wreck, vessel or part thereof or other thing that, by reason of its wreck, sinking, partial sinking, lying ashore or grounding, caused or was likely to cause the navigation of any such navigable water to become obstructed, impeded or rendered more difficult or dangerous, or

(c) caused to be removed or destroyed any vessel or part thereof, wreck or any other thing cast ashore, stranded or left on any public property belonging to Her Majesty in right of Canada,

and the cost thereof has been defrayed out of public moneys of Canada, the amount of the cost, whether or not a sale has been held under section 17, constitutes a debt to which subsection (2) applies.

Recovery by Her Majesty

(2) A debt constituted by virtue of subsection (1) is due to and recoverable by Her Majesty in right of Canada

(a) from the owner, managing owner, master or person in charge of the vessel or other thing at the time of the wreck, sinking, partial sinking, lying ashore or grounding thereof, as the case may be, referred to in subsection (1); or

(b) from any person through whose act or fault or through the act or fault of whose servant that wreck, sinking, partial sinking, lying ashore or grounding was occasioned or continued.

Application of moneys recovered

(3) Any sum recovered under subsection (2) forms part of the Consolidated Revenue Fund.

R.S., c. N-19, s. 16.

Order to remove vessel left anchored

19. (1) Where a vessel has been left anchored, moored or adrift in any navigable waters in such a manner that, in the opinion of the Minister, it obstructs or is likely to obstruct navigation in those waters, the Minister may order the owner, managing owner, master or person in charge of the vessel to remove it to such place as the Minister deems fit.

Failure to comply with order

(2) Where a person to whom an order is given pursuant to subsection (1) fails forthwith to comply with the order,

(a) the person is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars; and

(b) the Minister may order the vessel to be removed to such place as the Minister deems fit, and the costs of removal of the vessel shall be recoverable against the person as a debt due to Her Majesty.

R.S., c. N-19, s. 17.

Abandoned vessel

20. When any vessel or other thing is wrecked, sunk, partially sunk, lying ashore or grounded in any navigable water in Canada, the vessel and its cargo and every part thereof or other thing shall be deemed to be abandoned at the expiration of two years after the date of the casualty and, thereupon, the Minister may, under such restrictions as seem fit to the Minister, authorize any person to take possession of and remove the vessel or other thing for that person's own benefit, on giving to the owner, if known, one month's notice and, if the owner is unknown, public notice for a similar period in a local paper published nearest to the place of the vessel or other thing.

R.S., c. N-19, s. 18.

Throwing or depositing sawdust, etc., prohibited

21. No person shall throw or deposit or cause, suffer or permit to be thrown or deposited any sawdust, edgings, slabs, bark or like rubbish of any description whatever that is liable to interfere with navigation in any water, any part of which is navigable or that flows into any navigable water.

R.S., c. N-19, s. 19.

Throwing or depositing stone, etc., prohibited

22. No person shall throw or deposit or cause, suffer or permit to be thrown or deposited any stone, gravel, earth, cinders, ashes or other material or rubbish that is liable to sink to the bottom in any water, any part of which is navigable or that flows into any navigable water, where there are not at least twenty fathoms of water at all times, but nothing in this section shall be construed so as to permit the throwing or depositing of any substance in any part of a navigable water where that throwing or depositing is prohibited by or under any other Act.

R.S., c. N-19, s. 20.

Proclamation of exemption

23. The Governor in Council, when it is shown to the satisfaction of the Governor in Council that the public interest would not be injuriously affected thereby, may, by proclamation, declare any rivers, streams or waters in respect of which sections 21 and 22 apply, or any parts thereof, exempt in whole or in part from the operation of those sections, and may revoke the proclamation.

R.S., c. N-19, s. 21.

Powers of certain authorities

24. Nothing in this Part affects the legal powers, rights or duties of harbour commissioners, harbour masters, port wardens, The St. Lawrence Seaway Authority or a port authority established under the *Canada Marine Act* in respect of materials that, under this Part, are not allowed to be deposited in navigable waters.

R.S., 1985, c. N-22, s. 24; 1998, c. 10, s. 189.

Dumping places

25. The Minister may appoint places in any navigable waters not within the jurisdiction of any of the officers or corporations referred to in section 24, where stone, gravel, earth, cinders, ashes or other material may be deposited notwithstanding that the minimum depth of water at any such place may be less than twenty fathoms, and the Minister may make rules regulating the deposit of the materials.

R.S., c. N-19, s. 23.

Failure to give notice or to signal or light

26. Every person required by this Part to give notice to the Minister or to the chief officer of customs at any port of any obstruction or obstacle to navigation, or to place and maintain a sufficient signal or light to indicate the position of the obstruction or obstacle, who fails to give that notice or to place or maintain that signal or light is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars for each offence.

R.S., 1985, c. N-22, s. 26; R.S., 1985, c. 1 (2nd Supp.), s. 213.

OFFENCES AND PUNISHMENT

Contravention of section 21

27. Any person who contravenes section 21 is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars for each offence.

R.S., c. N-19, s. 25.

Fine

28. Any person who contravenes section 22 is guilty of an offence and liable on summary conviction to a fine not exceeding five thousand dollars and, in any case where any materials referred to in that section are thrown from or deposited by a vessel and a conviction is obtained therefor, the vessel is liable for the fine and may be detained by any port warden or the chief officer of customs at any port until the fine is paid.

R.S., 1985, c. N-22, s. 28; R.S., 1985, c. 1 (2nd Supp.), s. 213.

PART III

REGULATION OF FERRY CABLES AND SWING OR DRAW BRIDGES

INTERPRETATION

Definitions

29. In this Part,

“ferry cable”
« *câble de traille* »

“ferry cable” includes any ferry cable, rod, chain or other device put across, over, in or under any navigable water for working a ferry;

“swing or draw bridge”
« *pont tournant ou pont-bascule* »

“swing or draw bridge” means any swing or draw bridge other than a railway bridge.

R.S., c. N-19, s. 27.

GENERAL

Regulations

30. The Governor in Council may make regulations to govern

- (a) the laying, stretching or maintaining of any ferry cable;
- (b) the maintenance of lights and any other precautions for the safety of navigation in connection with such a ferry cable;
- (c) the opening and closing of any swing or draw bridge over any navigable water; and
- (d) the maintenance of lights and any other precautions for the safety of navigation in connection with such a bridge.

R.S., c. N-19, s. 28.

Punishment for contravention of regulation

31. Any regulation made under this Part may prescribe the punishment to be imposed on summary conviction for any contravention thereof but that punishment shall not exceed a fine of five hundred dollars or imprisonment for a term of six months or both.

R.S., c. N-19, s. 29.

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