

The Laws - Coastal Access – Nova Scotia

In Nova Scotia a grant of land only extends to the ordinary high water mark of tidal or coastal land. Land between the ordinary high and low water marks of coastal water is “Crown land”, “public lands”, and “public domain”, in other words land that is owned by the Crown in right of the province. On Crown land, the Province of Nova Scotia has the same rights as a property owner, subject to constitutional or legislative restrictions, pursuant to the Crown Lands Act. Nova Scotia DNR manages Crown lands in Nova Scotia
<http://nslegislature.ca/legc/statutes/crownlan.htm>.

This involves management, use and protection considerations including access and travel on Crown lands, forest recreation, and protection of habitat and wildlife. Crown land is considered a public asset, for the public to enjoy and explore within the context of certain restrictions and in certain designated areas meant to protect natural ecosystems, and to allow for other activities occurring under license on Crown land. Hunting and fishing in season, with the appropriate permits and licenses is permitted on Crown land.

Many recreational trails have also been developed on Crown land. Economic activities and related developments, such as forestry, power lines, wind turbines, cranberry bogs, peat bogs and mining occur through licensing and other agreements on Crown lands that are not designated as a provincial park, a protected beach, or designated for habitat conservation purposes.

Public access to coastal areas cannot infringe on the rights of parties that have entered into agreement with the province for the use of Crown land. Designated wilderness areas and wildlife management zones have additional restrictions on uses such as camping, hunting, trail and vehicle use, which are outlined in the Wilderness Protection Act
<http://nslegislature.ca/legc/statutes/wildarea.htm> and associated regulations. Access to the coast can include passage along cliffs, wetlands, dykes and many ecosystems and feature in the coastal landscape.

Beaches are significant coastal areas to which the public desires access. Two key pieces of legislation relate to beaches in Nova Scotia: The Beaches Act
<http://nslegislature.ca/legc/statutes/beaches.htm> and the Beaches and Foreshores Act. The Beaches Act defines a beach as the “area of land on the coastline lying to the seaward of the mean high watermark and that area of land to landward immediately adjacent thereto to the distance determined by the Governor in Council, and includes any lakeshore area declared by the Governor in Council to be a beach”. The Beaches Act provides for the protection of beaches and associated dune systems as significant and sensitive environmental and recreational resources. The Beaches Act provides for the regulation and enforcement of the full range of land-use activities on beaches, including aggregate removal, so as to leave them unimpaired for the benefit and enjoyment of future generations. The Beaches Act also controls recreational and other uses of beaches that may cause undesirable impacts on beach and associated dune systems.

The Beaches and Foreshores Act <http://nslegislature.ca/legc/statutes/beachesf.htm#outlines> provisions an restrictions for the granting or lease of any ungranted flat, beach or foreshore upon the Nova Scotia coast.

Private Land

Entering private land without permission or lawful authority is an offence according to the

Protection of Property Act and trespassers can be fined. The Protection of Property Act makes certain exceptions for recreational activities such as hunting as defined in the Wildlife Act, fishing, picnicking, camping, hiking, skiing or studying of flora or fauna. The exception from prosecution does not permit access to private land if the property owner has not granted his or her permission. Property owners are within their rights to privacy by demanding that trespassers leave. Trespassers may be liable for damage to private property and can be sued if necessary to enforce a property owner's right to privacy.