

TO: Halifax Board of Police Commissioners  
FROM: A/OIC Halifax District RCMP – Inspector J.J.R. Landry  
SUBJECT: Enforcement direction – Protection of Property Act  
DATE: August 3, 2022

**Item No. 10.2.2 (ii)**  
**Board of Police Commissioners**  
**September 7, 2022**

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BRIEFING ITEM

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**July 6, 2022:**

**That the Chair of the Halifax Board of Police Commissioners (the “Board”) direct the Chief Officer of the Halifax Regional Police (“HRP”) and recommend that the Chief Superintendent of the Halifax District Royal Canadian Mounted Police (“RCMP”) prepare staff reports to be received by the Board at an early as possible meeting. These reports should briefly outline all policies, procedures, and other operational guidance provided to officers regarding the enforcement of the *Protection of Property Act* specifically as it relates to responding to encampment sites for homeless individuals in municipal parks.**

**DETAILS:**

The Board of Police Commissioners recommended the RCMP provide a brief outline of all

- Policies, procedures, and any other operational guidance.

Provided to officers regarding enforcement of the Protection of Property Act, specifically, as it relates to responding to encampment sites for homeless individuals in municipal parks.

The Nova Scotia Protection of Property Act R.S., c. 363, s. 1 is an “An Act to Protect Property.”

Response to the Board of Police Commissioners recommendation is broken down into the two primary areas requested for detail, policies/procedures and any other operational guidance.

- 1) Policies/procedures.

RCMP ‘H’ Division Nova Scotia Operations Manual section 100.13 Protection of Property Act refers to all enforcement under this Provincial statute:

*1. No person under age 12 is to be prosecuted for violation of this Act.*

*2. The definition of “premises” under Sec. 2(d) of the PPA also includes beaches, whether or not the beach has been designated under the Beaches Preservation and Protection Act.*

*3. Department of Natural Resources personnel are not peace officers for the purpose of this Act and, therefore, have no authority to enforce it.*

*4. Police powers are contained in Sec. 6, 8 and 9 of the PPA.*

*5. Discretion is to be used when invoking arrest procedures under 6(2) of the PPA.*

6. Sec. 3, 4 and 7 identify the various offences under the PPA.

7. A SOT may be issued for offences under this statute.

8. The provisions of the Act do not apply to land surveyors and their assistants while engaged in a land survey. See Sec. 6 of the Nova Scotia Lands Surveyors Act states:

8.1. "Every Nova Scotia Land Surveyor and his assistants when engaged in professional land surveying may enter upon and pass over any land, doing as little as possible; and, save as hereinafter provided, no action shall lie against such Nova Scotia Land Surveyor or his assistants for any Act done under this Section, provided that such Nova Scotia Land Surveyor shall be liable for any unnecessary damage done by him or by his assistants under this Section. 1977, c. 13 s. 16."

9. Consider prosecution under Sec. 7(b) of the Act for flagrant disturbance complaints occurring in a dwelling, e.g. noisy house parties, family arguments.

2) Any other operational guidance provided.

In August 2021, informal discussions occurred with supervisors within Halifax District RCMP, where direction was provided not to remove any encampments or homeless individuals from our parks, without first engaging a supervisor and their respective Line Officer for further direction.

On August 3, 2022, written direction was provided to all Line Officers within Halifax District RCMP that no encampments will be dismantled or homeless individuals removed from parks, without the knowledge and support of the Halifax District RCMP Management Team. That should a need arise to remove an encampment(s) or homeless individuals, a proper strategy must be in place that ensures the specific needs/circumstances of the situation are adequately addressed.

#### **CURRENT STATUS:**

At the time of writing, enforcement action under the Protection of Property Act has not been taken by Halifax District RCMP, toward a call for service regarding an encampment site for homeless individuals in a municipal park.

Prepared by: Inspector M. O'Flynn – Management and Admin Services Officer Halifax District

Reviewed by: Inspector J. Landry – Acting Officer in Charge Halifax District RCMP

Approved by: Inspector J. Landry – Acting Officer in Charge Halifax District RCMP

Attached: NS Protection of Property Act (6 pages)



# Protection of Property Act

CHAPTER 363

OF THE

REVISED STATUTES, 1989

amended 2001, c. 12, s. 47

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## An Act to Protect Property

### Short title

1 This Act may be cited as the *Protection of Property Act*. R.S., c. 363, s. 1.

### Interpretation

2 In this Act,

(a) "motor vehicle" means any vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered under the *Motor Vehicle Act*, and includes motor boats and motor vessels;

(b) "occupier" includes

(i) a person who is in possession of premises, or

(ii) a person who has responsibility for and control over the condition of premises or the activities there carried on, or control over persons allowed to enter the premises,

notwithstanding that there is more than one occupier of the same premises;

(c) "police officer" means a member of the Royal Canadian Mounted Police or a member of a municipal police force;

(d) "premises" means lands and structures, or either of them, and includes trailers and portable structures designed or used for residence, business or shelter. R.S., c. 363, s. 2.

### **Entry or certain activity on premises**

**3 (1)** Every person who, without legal justification, whether conferred by an enactment or otherwise, or without the permission of the occupier or a person authorized by the occupier, the proof of which rests upon the person asserting justification or permission,

(a) enters on premises that is a lawn, garden, orchard, vineyard, golf course or acreage managed for agricultural crops;

(b) enters on premises that is apparently a tree plantation area or a Christmas tree management area;

(ba) enters on premises that is apparently a railway line within the meaning of the *Railways Act* except to cross the railway line at a legally recognized crossing;

(c) enters on premises that is enclosed in a manner that indicates the occupiers intention to keep persons off the premises or to keep animals on the premises;

(d) dumps or deposits material of any kind or causes, suffers or permits material to be dumped or deposited on premises;

(e) enters on premises where entry is prohibited by notice; or

(f) engages in an activity which is prohibited on the premises by notice,

is guilty of an offence and on summary conviction is liable to a fine of not more than five hundred dollars.

**(2)** A notice under this Section may be given orally or in writing.

**(3)** Where the notice in writing is by means of a sign, the sign shall be posted so that it is clearly visible in daylight under normal conditions from the approach to each usual point of access to the premises to which it applies.

**(4)** A notice under this Section may be given in respect of any part of the premises of an occupier.

**(5)** Every person who, without legal justification, whether conferred by an enactment or otherwise, removes a sign or notice posted by an occupier is guilty of an offence and on summary conviction is liable to a fine of not more than five hundred dollars.

**(6)** Every person who, not being an occupier of the premises or acting for the occupier of the premises, posts a sign or notice restricting entry or prohibiting activity on premises is guilty of an offence and is liable on summary conviction to a fine of not more than five hundred dollars. R.S., c. 363, s. 3; 2001, c. 12, s. 47.

### **Remaining on premises after request to leave**

**4** Every person who, without legal justification, whether conferred by an enactment or otherwise, remains on premises after being directed to leave by the occupier of the premises or a person authorized by the occupier is guilty of an offence and is liable on summary conviction to a fine of not more than five hundred dollars. R.S., c. 363, s. 4.

### **Defence**

**5 (1)** It is a defence to a charge under Section 3 or 4 that the person charged reasonably believed that he had legal justification, or permission of the occupier or a person authorized by the occupier, to enter on the premises or to do the act complained of.

**(2)** It is a defence to a charge of violating a written notice prohibiting entry on premises or engaging in an activity on premises that the person was unable to see or understand the notice. R.S., c. 363, s. 5.

### **Arrest and detention**

**6 (1)** A police officer may arrest a person for an offence under this Act and detain that person in custody after the arrest if on reasonable and probable grounds he 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.

**(2)** Notwithstanding the power of arrest conferred by subsection (1), a police officer shall not arrest a person for an offence under this Act committed in a shopping centre having four or more stores unless the person persists in committing the offence after being told to leave the premises and being warned by the occupier or police officer that he may be arrested for the offence if he remains or returns. R.S., c. 363, s. 6.

### **Disturbing occupier**

**7** Every person who disturbs an occupier of premises by

- (a) the unreasonable operation for recreational purposes of a motor vehicle on, or in the vicinity of, the premises; or
- (b) disorderly behaviour,

is guilty of an offence and is liable on summary conviction to a fine of not more than five hundred dollars. R.S., c. 363, s. 7.

### **Duty to identify person in charge or operator of vehicle**

**8 (1)** When a motor vehicle is operated in violation of this Act, the owner of the vehicle on the request of any police officer shall, within forty-eight hours of the request, supply the police officer with the name and address of the person in charge of the vehicle at the time of such violation.

**(2)** Where under this Section the owner of a motor vehicle, at the request of a police officer, supplies the name of a person who had the motor vehicle with the consent of the owner, that person on the

request of any police officer shall, within forty-eight hours of the request, supply the police officer with the name and address of the person operating the vehicle at the time of the violation.

(3) An owner or other person who is requested pursuant to this Section to supply the name and address of the person operating a vehicle and who refuses, fails, neglects or is unable to supply the name and address of the person operating the vehicle within forty-eight hours after being so requested is liable on summary conviction to a penalty prescribed for the offence of the operator.

(4) In any prosecution under this Section it is a defence if the owner or the person who had the vehicle with the consent of the owner, as the case may be, can prove that the vehicle was being operated at the time of the violation without his knowledge or consent, either expressed or implied. R.S., c. 363, s. 8.

### **Right to seize and detain vehicle**

**9 (1)** Where a police officer has reasonable and probable grounds to believe

(a) an offence under this Act has been committed by means of a motor vehicle; and

(b) the seizure of the motor vehicle is necessary to prevent the continuation or repetition of the offence or the commission of another offence under this Act,

the police officer may seize and detain the motor vehicle for such period of time not exceeding forty-eight hours as he deems necessary.

(2) Before the motor vehicle is released, the expenses relating to its seizure and detention under this Section shall be paid by the person to whom it is to be released. R.S., c. 363, s. 9.

### **Order prohibiting entry by convicted person**

**10 (1)** Where a person is convicted of an offence under this Act in respect of premises generally open to the public, the court may make an order prohibiting that person from entering the premises in relation to which the conviction was entered for a period not exceeding six months.

(2) A person who is bound by an order made pursuant to subsection (1) and who fails to comply with that order is guilty of an offence and is liable on summary conviction to a fine of not more than five hundred dollars. R.S., c. 363, s. 10.

### **Restitution order**

**11 (1)** Where a person is convicted of an offence under this Act and another person has, as a result of the commission of the offence, suffered damage caused by the person convicted, the court may, on the application of the person who suffered the damage, determine the amount of the damages and order restitution by the person convicted, but no restitution order shall be for an amount in excess of two thousand dollars.

(2) No application may be made under subsection (1) unless the person who suffered the damage has given reasonable notice to the defendant of his intention to make the application.

(3) Where a prosecution under this Act is conducted by a private prosecutor, and the defendant is convicted, the court may, unless the court is of the opinion that the prosecution was not necessary for the protection of the occupier or his interests, order a sum not exceeding five hundred dollars, or such

larger sum as may be determined from time to time by the Governor in Council, to be paid by the defendant to the private prosecutor by way of costs incurred for the prosecution.

(4) An order for restitution under subsection (1) or an award of costs under subsection (3) shall be in addition to any fine that is imposed under this Act.

(5) An order for restitution under subsection (1) does not extinguish the right of the person in whose favour the order is made to bring a civil action for damages against the person convicted arising out of the same facts.

(6) The failure to request or refusal to grant an order for restitution under subsection (1) does not affect a right to bring a civil action for damages arising out of the same facts. R.S., c. 363, s. 11.

### **Order of court**

**12 (1)** An order made by a court pursuant to Section 11 may be made an order of the county court and thereupon may be enforced in a like manner as any order of such court.

(2) To make the order of the court an order of the county court, the judge or justice of the peace shall endorse a copy of the order certified by him to be a true copy as follows:

Make the within an order of the county court.

Dated this . . . . . day of . . . . ., 19. . . . .

. . . . .

Judge or Justice of the Peace

and the judge or justice of the peace shall forward the order so endorsed to the clerk of the county court who shall, on receipt thereof, enter the same as a record, and it shall thereupon become and be an order of the county court and be enforceable as any order thereof. R.S., c. 363, s. 12.

### **Person under twelve years**

**13** No person under twelve years of age may be prosecuted for violating this Act. R.S., c. 363, s. 13.

### **Civil remedy for trespass**

**14** Nothing contained in this Act restricts or shall be deemed to restrict the availability of injunctive relief or any other civil remedy for trespass to property that is otherwise available. R.S., c. 363, s. 14.

### **No prosecution for recreational activity**

**15 (1)** In this Section, "forest land" means a wooded area, forest stand, tract covered by underbrush, barren ground, marsh or bog, but does not include

- (a) an area which is apparently a tree plantation area or a Christmas tree management area;
- (b) a special forestry study area;

(c) the immediate area where any activity is apparently being carried out on woodlands for the purpose of harvesting a forest product;

(d) a commercial berry growing area.

(2) No person may be prosecuted for contravening any notice given pursuant to this Act prohibiting entry or prohibiting activity on forest land if that person is hunting as defined in the *Wildlife Act*, fishing, picnicking, camping, hiking, skiing or engaged in another recreational activity or engaged in a study of flora or fauna. R.S., c. 363, s. 15.

### **No prosecution if legal strike activity or demonstration**

**16** This Act does not apply to a person who is engaged in

(a) a lawful activity of employees on strike, including picketing; or

(b) a peaceful demonstration in the vicinity of premises to which the public normally has access. R.S., c. 363, s. 16.



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