

Biodiversity Act

CHAPTER 3 OF THE ACTS OF 2021



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**An Act to Provide For the Conservation
and Sustainable Use
of Biodiversity in Nova Scotia**

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WHEREAS biodiversity is essential to healthy and productive ecosystems and is therefore essential to human well-being;

AND WHEREAS the conservation and sustainable use of biodiversity is interconnected with sustainable prosperity, a healthy environment, vibrant thriving communities, innovation and a strong competitive economy;

AND WHEREAS biodiversity and its sustainable uses are valued by Nova Scotians as important parts of the environment, heritage and economy of Nova Scotia;

AND WHEREAS an ecosystem approach that involves the integrated management of land, water and living organisms, promotes conservation and sustainable use of biodiversity in consideration of the precautionary principle and recognizes that humans are an integral part of ecosystems will strengthen land-use planning and natural resources management;

AND WHEREAS programs, policies and protective measures for biodiversity enable the Government of Nova Scotia to maintain and restore the diversity of genes, species and ecosystems, ensuring healthy ecosystems and the provision of ecosystem goods and services;

AND WHEREAS the conservation and sustainable use of biodiversity is a complex, cross-cutting imperative that necessitates co-operation and collaboration among all sectors and is therefore a shared responsibility of all levels of government, non-government organizations, the private sector, land trusts and owners of private land, the Mi'kmaq of Nova Scotia and all other Nova Scotians;

AND WHEREAS biodiversity must be managed for the benefit of present and future generations, which is in keeping with the Mi'kmaq concept of *Netukulimk*, defined by the Mi'kmaq as the use of the natural bounty provided by the Creator for the self-support and well-being of the individual and the community by achieving adequate standards of community nutrition and economic well-being without jeopardizing the integrity, diversity or productivity of the environment;

AND WHEREAS a number of Government departments and legislation such as the *Endangered Species Act*, the *Environment Act*, the *Wilderness Areas Protection Act* and the *Wildlife Act* play key roles in the conservation and sustainable use of biodiversity in Nova Scotia but do not address all aspects of conservation and sustainable use;

AND WHEREAS Nova Scotia is committed to a complete, holistic, integrated legislative framework that provides for all aspects of the conservation and sustainable use of biodiversity:

Short title

1 This Act may be cited as the *Biodiversity Act*. 2021, c. 3, s. 1.

Purpose of Act

2 The purpose of this Act is to provide for the stewardship, conservation, sustainable use and governance of biodiversity in the Province, as part of an integrated framework of legislation, while recognizing

- (a) biodiversity has inherent value;
 - (b) conservation and sustainable use of biodiversity is a responsibility shared by all Nova Scotians;
 - (c) the importance of reducing the direct pressures on biodiversity and promoting restoration and sustainable use; and
 - (d) the importance of implementation of this Act through participatory planning, education, sharing of information and capacity building.
- 2021, c. 3, s. 2.

Interpretation

3 In this Act,

- (a) “biodiversity” means
 - (i) living organisms from all sources,

(ii) the ecological complexes of which living organisms are a part, including terrestrial, marine and other aquatic ecosystems, and

(iii) the variability and interdependence among living organisms and ecological complexes,

and includes genetic diversity, diversity within and between species and diversity of ecosystems and ecological processes;

(b) “biodiversity management zone” means a specified area of land managed, for a period of time, for the purpose of supporting the conservation or sustainable use of specified biodiversity values;

(c) “conservation” means the maintenance or sustainable use of the Earth’s resources in a manner that maintains biodiversity and the evolutionary and other processes that result in biodiversity;

(d) “Department” means the Department of Natural Resources;

(e) “ecosystem” means a dynamic complex of plant, animal or micro-organisms and their non-living environment, interacting as a functional unit;

(f) “ecosystem goods and services” means the natural goods provided by ecosystems, their role in regulating and supporting natural processes and the cultural and economic benefits they provide;

(g) “habitat” means land, water or air where a plant, animal or other organism lives;

(h) “land” includes land covered by water;

(i) “Minister” means the Minister of Natural Resources;

(j) “organism” means an active, infective or dormant stage, or form of life, of any biological entity capable of reproducing itself, or of transferring genetic material, and includes plants, animals, fungi, mycoplasmas, micro-organisms, viruses and viroids, cell and tissue cultures, germinal cells, seeds, pollen and spores;

(k) “private land” means lands situate in the Province that are not owned or held by or on behalf of His Majesty in right of the Province or Canada;

(l) “species” means a plant species, animal species or other species of organism, and includes one or more populations of a species, the eggs, larvae or other forms of developmental life of a species and any part of an individual of a species, but does not include a domesticated species;

(m) “sustainable use” means, with respect to biodiversity, the use of biodiversity in a way and at a rate that does not lead to the long-term decline of biodiversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations. 2021, c. 3, s. 3; O.I.C. 2021-210; O.I.C. 2024-425.

Act binds Crown

4 This Act binds His Majesty in right of the Province. 2021, c. 3, s. 4.

Department of Natural Resources

5 The Department is the lead department with respect to the conservation and sustainable use of biodiversity and shall work with the other Government departments within their related mandates to achieve the purpose of this Act. 2021, c. 3, s. 5.

Review of Act

6 (1) The Minister shall initiate a review of this Act within five years of it coming into force and make a written report respecting the review available to the public.

(2) In conducting the review of this Act, the Minister shall consult with the public, including landowners and stakeholders. 2021, c. 3, s. 6.

MINISTERIAL POWERS AND DUTIES

Supervision and management of Act

7 The Minister is responsible for the supervision and management of this Act. 2021, c. 3, s. 7.

Powers of Minister

8 The Minister may

(a) develop, co-ordinate, adopt and implement policies, standards, guidelines and programs for the conservation and sustainable use of biodiversity, including for

(i) the conservation and management of ecosystems and habitats,

(ii) the conservation and sustainable use of wild species,

(iii) the protection of human health, safety and property as it relates to biodiversity,

(iv) the observation, prevention and management of wildlife pathogens and diseases and other pathogens and diseases that impact on biodiversity,

(v) the management of organisms under human control, including wildlife as defined by the *Wildlife Act*,

(vi) the prevention and management of invasive or alien species, and

(vii) incentives for conservation and sustainable use of biodiversity, including a compensation framework for biodiversity conservation activities and a framework for the valuation of, and exchange or payment for, ecological goods and services;

(b) promote the purpose of this Act through proactive approaches through co-operation, communication, education, incentives and partnerships;

(c) undertake, promote or recommend measures to allow for public co-operation in the conservation and sustainable use of biodiversity;

(d) consult and co-ordinate with other departments and agencies of the Province with respect to their work and efforts relating to any matter involving the conservation or sustainable use of biodiversity;

(e) co-ordinate and implement biodiversity policies and programs in co-operation with the Government of Canada, the government of a province of Canada or a municipality, or with an agency of any of the foregoing;

(f) establish or adopt goals and targets for biodiversity and indicators of ecosystem health and integrity; and

(g) provide funding and other support for biodiversity-related research, investigation and monitoring, as well as land securement and stewardship. 2021, c. 3, s. 8.

Agreement

9 Subject to Section 6 of the *Public Service Act*, the Minister may enter into an agreement with any person, including the Government of Canada, the government of a province of Canada or a municipality, or with an agency of any of the foregoing, for any purpose related to this Act or the regulations, including an agreement respecting

(a) the conservation and sustainable use of biodiversity;

(b) co-operation between federal, provincial or municipal governments, or agencies thereof, for the enforcement of laws respecting the conservation and sustainable use of biodiversity;

(c) the conduct of biodiversity or ecological investigations;

(d) the development and implementation of collaborative programs for the classification, inventory and assessment of biodiversity;

(e) the development and implementation of collaborative, informational, educational or training programs respecting biodiversity; and

(f) research, programs and measures respecting the conservation and sustainable use of biodiversity. 2021, c. 3, s. 9.

Studies and research

10 The Minister may cause studies to be undertaken and cause research to be carried out to

(a) identify, evaluate, monitor and study biodiversity and any threats to biodiversity;

(b) provide for inventories of biodiversity;

(c) assess the impacts of land-use and resource-use activities on biodiversity;

(d) establish priorities for the conservation and sustainable use of biodiversity based on consistent evaluation protocols for biodiversity throughout the Province;

(e) promote the long-term productivity, diversity and functioning of ecosystems;

(f) assess the value of biodiversity and ecosystem goods and services;

- (g) investigate and establish methods to
 - (i) incorporate the value of biodiversity and ecosystem goods and services into decision-making, and
 - (ii) manage the conservation and sustainable use of biodiversity;
- (h) establish priorities and methods for restoring degraded or impaired biodiversity; and
- (i) investigate any other matter associated with the conservation and sustainable use of biodiversity. 2021, c. 3, s. 10.

Experts

- 11** The Minister may
- (a) retain experts with expertise in the areas of natural science, traditional knowledge, conservation and sustainable uses to report to the Minister with respect to
 - (i) any matters relating to the conservation and sustainable use of biodiversity,
 - (ii) any policies, programs or other matters under the administration of the Minister under this Act, and
 - (iii) any other matters the Minister, in the Minister's sole discretion, considers advisable to refer to an expert;
 - (b) specify the functions that experts are to perform, including the seeking of input from the public, and the manner and period in which those functions are to be performed; and
 - (c) provide for the remuneration and defraying of expenses to experts. 2021, c. 3, s. 11.

Education and outreach

- 12** For the purpose of promoting greater public awareness, understanding and shared stewardship of biodiversity, the Minister may
- (a) undertake educational programs respecting the conservation and sustainable use of biodiversity;
 - (b) undertake or provide for environmental, educational and natural history interpretation at biodiversity management zones;
 - (c) work with private agencies and individuals to achieve the objects of this Act; and
 - (d) encourage an exchange of information respecting biodiversity between the public and private sectors. 2021, c. 3, s. 12.

Monitoring and information sharing

- 13** The Minister shall establish and maintain such classification, inventory, status-assessment and monitoring programs as the Minister considers necessary or advisable to assess the state of biodiversity in the Province and to provide information to inform the responsible conservation and sustainable use of biodiversity. 2021, c. 3, s. 13.

Data sharing and reporting

14 (1) The Minister shall establish mechanisms to share data relating to biodiversity.

(2) The Minister shall begin reporting to the public on the state of the Province's biodiversity within three years of this Act coming into force and shall give regular updates no later than every five years thereafter. 2021, c. 3, s. 14.

BIODIVERSITY MANAGEMENT ZONES**Biodiversity management zone on Crown land**

15 (1) The Minister, with the approval of the Governor in Council, may

(a) establish and administer a biodiversity management zone on any land vested in His Majesty in right of the Province;

(b) alter the boundaries of a biodiversity management zone established under clause (a); and

(c) declare any area established under clause (a) to no longer be a biodiversity management zone.

(2) The Governor in Council may make regulations respecting biodiversity management zones established under this Section, including regulations

(a) setting out or altering the boundaries of a biodiversity management zone;

(b) respecting the management and conservation actions to be undertaken in a biodiversity management zone;

(c) respecting activities necessary to fulfil the objectives of a biodiversity management zone;

(d) respecting monitoring and reporting activities to be undertaken in a biodiversity management zone;

(e) respecting the period for which a biodiversity management zone is established;

(f) respecting any other matter relating to a biodiversity management zone.

(3) The exercise by the Governor in Council of the authority contained in subsection (2) is a regulation within the meaning of the *Regulations Act*. 2021, c. 3, s. 15.

Voluntary biodiversity management zones on private land

16 (1) The Minister may establish a biodiversity management zone on private land with the consent of the owner of the private land by entering into an agreement with the owner.

(2) An agreement entered into pursuant to subsection (1) may contain such terms and conditions as the Minister and the owner of the private land agree to, which may include

- (a) boundaries of the biodiversity management zone;
- (b) specifying management and conservation actions to be undertaken in the biodiversity management zone;
- (c) specifying activities necessary to fulfil the objectives of the biodiversity management zone;
- (d) specifying monitoring and reporting activities to be undertaken in the biodiversity management zone;
- (e) specifying the period for which the biodiversity management zone is established;
- (f) outlining compensation to be provided to the owner of the private land; and
- (g) providing for any other matter relating to the biodiversity management zone. 2021, c. 3, s. 16.

Notice of biodiversity management zone

17 Where the Minister establishes a biodiversity management zone pursuant to Section 15 or 16, the Minister shall publish a notice containing a description of the biodiversity management zone in the Royal Gazette and on the Department website, and may circulate the notice in any other manner the Minister considers appropriate. 2021, c. 3, s. 17.

GENERAL

Regulations

- 18 (1) The Governor in Council may make regulations
- (a) respecting the establishment, control and management of biodiversity management zones on land vested in His Majesty in right of the Province pursuant to Section 15;
 - (b) respecting the establishment of mechanisms by which the Minister reports to the public on matters relating to biodiversity, and the information that must be included in such reports;
 - (c) respecting the establishment or adoption of goals and targets for biodiversity and indicators of ecosystem health and integrity;
 - (d) respecting the conservation and sustainable use of biodiversity;
 - (e) respecting the prevention and management of threats to biodiversity and the restoration of biodiversity;
 - (f) respecting the prevention and management of invasive or alien species;
 - (g) respecting the import and export of organisms in the Province;
 - (h) respecting the prevention, management and surveillance of diseases that affect biodiversity;

- (i) respecting access to and the sharing of benefits arising from genetic resources;
- (j) respecting the prevention and management of impacts on human health, safety and property from biodiversity;
- (k) respecting the valuation of, and exchange or payment for, ecological goods and services;
- (l) respecting a compensation framework for biodiversity conservation activities;
- (m) prescribing fees for the purpose of this Act and the regulations;
- (n) defining any word or expression used but not defined in this Act;
- (o) respecting any matter or thing the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The Minister shall consult with the public, including landowners and stakeholders, in such manner as the Minister considers appropriate before proposing a new regulation or a substantive amendment to a regulation under subsection (1) for Governor in Council consideration.

(3) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2021, c. 3, s. 18.

Effective date

19 This Act has effect on and after October 1, 2021. 2021, c. 3, s. 19.
