

Public Highways Act

CHAPTER 371 OF THE REVISED STATUTES, 1989

as amended by

1990, c. 44; 1994-95, c. 7, ss. 93-96; 1994-95, c. 16;
1995-96, c. 17, s. 96; 1998, c. 18, s. 573; 1999, c. 4, s. 30;
2001, c. 12, ss. 22-24; 2001, c. 44, s. 11; 2006, c. 16, s. 9; 2011, c. 3;
2019, c. 37, ss. 1-9, 12(4), 13, 15(2), (3), 16(1), (3), 17-22, 23(1),
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30(1), (2), 31(2), 32(3)(a), (4)



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 1995-96, c. 17, s. 96; 1998, c. 18, s. 573; 1999, c. 4, s. 30;
 2001, c. 12, ss. 22-24; 2001, c. 44, s. 11; 2006, c. 16, s. 9; 2011, c. 3;
 2019, c. 37, ss. 1-9, 12(4), 13, 15(2), (3), 16(1), (3), 17-22, 23(1),
 24(1)(a), (2)-(5), 26(1)(a), (b), (2), (3), 28(1), (2)(a), 29,
 30(1), (2), 31(2), 32(3)(a), (4)

An Act Respecting Public Highways

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Short title

- 1 This Act may be cited as the *Public Highways Act*. R.S., c. 371, s. 1.

INTERPRETATION

Interpretation

- 2 In this Act,
- (a) *repealed 1994-95, c. 16, s. 1.*
 - (aa) “city or town” includes the area of a regional municipality that was a city or town immediately prior to the incorporation of the regional municipality;
 - (b) “construction” includes the original work of constructing, opening or making a public highway;
 - (c) “council” means a municipal council;
 - (d) “Deputy Minister” means the Deputy Minister of Transportation and Infrastructure Renewal;
 - (e) *repealed 1994-95, c. 16, s. 1.*
 - (f) “highway” means a public highway or public road and includes the bridges thereon;

(g) “maintenance” means the preservation and keeping in repair of a public highway, and includes the removal of snow and the doing of any work and the supplying of any materials in connection therewith;

(h) “Minister” means the Minister of Transportation and Infrastructure Renewal;

(i) “municipality” means the county or district under the jurisdiction of a municipal council and includes a regional municipality;

(j) *repealed 1994-95, c. 16, s. 1.*

R.S., c. 371, s. 2; 1994-95, c. 16, s. 1; 1994-95, c. 7, s. 93; 1998, c. 18, s. 573; 2019, c. 37, s. 1.

ADMINISTRATION

Application of Act

3 This Act applies to all highways within the Province not included within the boundaries of a city or town or owned by a municipality, and does not, except where expressly provided, apply to highways within the boundaries of cities or towns or owned by a municipality. R.S., c. 371, s. 3; 1994-95, c. 7, s. 94.

Management and control of highways

4 The Minister has the supervision, management and control of the highways and of all matters relating thereto. R.S., c. 371, s. 4.

Construction or maintenance by Minister

5 The Minister may construct or maintain any highway, or may on behalf of Her Majesty in right of the Province enter into contracts or agreements for such construction or maintenance, but nothing in this Act compels or obliges the Minister to construct or maintain any highway or to expend money on any highway. R.S., c. 371, s. 5.

6 to 8 *repealed 1994-95, c. 16, s. 1.*

Provincial Highway Fund

9 (1) There shall be established and maintained in the Consolidated Fund of the Province an account to be known as the Provincial Highway Fund.

(2) There shall be credited to the Provincial Highway Fund

(a) such sums as may be determined from time to time by the Governor in Council, not exceeding the amount voted by the Legislature for the purpose;

(b) all fees and fines paid to the Minister or the Department of Transportation and Infrastructure Renewal under the *Motor Vehicle Act*;

(c) all sums paid as taxes under the *Revenue Act*;

(d) all sums contributed by the Government or Parliament of Canada to encourage and assist the improvement of highways;

(e) all sums voluntarily contributed by any municipality, city, town, person, corporation or association for any improvements or repairs to any highway.

(3) There shall be charged against the Provincial Highway Fund

(a) all expenditures made under this Act; and

(b) all amounts required for the repayment of moneys borrowed for the performance of works authorized by this Act, and amounts required for the payment of interest on any such moneys. R.S., c. 371, s. 9; 1995-96, c. 17, s. 96; 2019, c. 37, s. 2.

EQUIPMENT

Disposal of equipment

10 (1) The Minister may sell, lease or dispose of, for such consideration and on such terms and conditions as the Minister deems advisable, any of the following equipment, namely: road graders, road rollers, tractors, motor trucks, motor cars, electric motors, rock crushing machinery, elevators, loading bins, air compressor drills, derricks, excavating and loading machines, horses, vehicles, plows, drags, scrapers, scarifiers and such other machines or implements as are used in connection with the construction or maintenance of the highways.

(2) All sums of money received from any such sale or disposal shall be paid to the Minister, and shall be credited to "The Machinery Replacement Reserve Account", which account may from time to time be used by the Minister for the purchase and maintenance of other equipment.

(3) Such sums as the Minister may determine as reasonable shall be charged to any work on which such equipment is used and such sums shall be credited to "The Machinery Replacement Reserve Account". R.S., c. 371, s. 10; 2019, c. 37, s. 3.

HIGHWAY BOUNDARIES AND TITLE

Common and public highways and local highways

- 11 (1) Except in so far as they have been closed according to law,
- (a) all allowances for highways made by surveyors for the Crown;
- (b) all highways laid out or established under the authority of any statute;
- (c) all roads on which public money has been expended for opening, or on which statute labour has been performed prior to the twenty-first day of March, 1953;

- (d) all roads passing through Indian lands;
- (e) all roads dedicated by the owners of the land to public use;
- (f) every road now open and used as a public road or highway; and
- (g) all alterations and deviations of, and all bridges on or along any road or highway,

shall be deemed to be common and public highway until the contrary is shown.

(2) Every common and public highway, together with the land within the highway's boundaries, is vested in Her Majesty in right of the Province.

(3) The Minister may vest any local highway in a municipality.

(4) The approval of the Governor in Council is not required for a conveyance pursuant to subsection (3). R.S., c. 371, s. 11; 1994-95, c. 7, s. 95.

Reservation of land for highway

12 When the Minister is of the opinion

- (a) that certain lands will, in future, be required for the construction of a public highway;
- (b) that the land will not be immediately required for that purpose;
- (c) that it is desirable, in the interest of economy and certainty, to reserve the lands for highway purposes,

the Minister may, in the manner hereinafter set out, reserve the said lands for highway purposes for such period, not exceeding five years, as the Minister considers desirable. R.S., c. 371, s. 12; 2019, c. 37, s. 4.

Filing of documents, notice to owner and appeal

13 (1) When the Minister has reserved lands pursuant to Section 12, the Minister shall file or cause to be filed in the registry of deeds of the district in which the lands are situated or, where the lands are registered pursuant to the *Land Registration Act*, in the land registration office in the parcel register for the lands, a declaration that the Minister so reserves the lands and the period of the reservation together with a plan and description of the lands to be reserved.

(2) Within ten days after the filing of a declaration under subsection (1), the Minister shall notify the owner of any lands affected by the reservation,

- (a) if the owner and the owner's residence are known to the Minister, by serving upon the owner or by mailing by registered letter addressed to the owner at the owner's last known place of residence; or

(b) if the owner or the owner's residence are unknown to the Minister, by posting in a conspicuous place on such lands,

a notice stating that the declaration has been filed and the date and place of filing and containing a copy of this Section.

(3) The owner of land within or abutting upon a reservation described in a plan and description filed under subsection (1) may, within thirty days after filing of the plan and description, apply to the Minister to rescind, vary or modify the period or area of the reservation, and the Minister on such application may confirm, rescind, vary or modify the reservation and shall forthwith give notice of the Minister's decision to the applicant.

(4) A person who has applied to the Minister under subsection (3) and received the Minister's decision may, in accordance with the *Nova Scotia Civil Procedure Rules*, make an application to the Supreme Court of Nova Scotia for judicial review of the Minister's decision.

(5) *repealed 2019, c. 37, s. 5.*

(6) Where thirty days have elapsed after the filing of a plan and description under subsection (1) and no person has applied to the Minister under subsection (3), the Minister may file in the registry of deeds or in the land registration office, a certificate that no such application has been made to the Minister and thereupon the lands described in the plan and description shall be reserved for highway purposes in accordance with the terms of the declaration.

(7) Upon making a decision to rescind, vary or modify pursuant to subsection (3), the Minister may file in the registry of deeds or in the land registration office, a certificate setting out the Minister's decision.

(8) The Minister, by a declaration filed in the registry of deeds, may terminate or reduce the period or vary the area of any reservation created under this Section. R.S., c. 371, s. 13; 2019, c. 37, s. 5.

Compensation respecting reservation

14 Where a person erects upon land, in respect of which a reservation under Section 13 is in effect, any building, wall, fence, wharf, breakwater or other structure of a permanent nature, or makes on it any improvements of any sort, or otherwise enhances the value of the land by obtaining permits, approvals or other rights appurtenant to or that benefit the land, and the land is subsequently acquired by the Minister for highway purposes, the Minister, notwithstanding the *Expropriation Act*, shall not be liable to pay compensation to the owner in respect of the building, wall, fence, wharf, breakwater, structure or improvement that was erected or made or permit, approval or right that was obtained while the reservation was in effect, provided, however, that this Section shall not apply to any extension, renovation, repair or improvement of any dwelling house of one or more housing units on any land reserved as aforesaid done in good faith and not for the purpose of increas-

ing the value thereof whereby the dwelling house is not converted into an increased number of dwelling units. R.S., c. 371, s. 14; 2019, c. 37, s. 6.

Width and boundaries of highway

15 (1) Every common and public highway shall, until the contrary is shown, be deemed to be at least 20.1168 metres in width.

(2) In the event of a dispute as to the boundaries of a highway or road, the boundaries shall be fixed by the Minister.

(3) Any person aggrieved by a decision of the Minister under subsection (2) may, within one month of the date of the decision, appeal therefrom to the judge of the Supreme Court for the judicial district within which the highway lies, who shall hear and determine the appeal in a summary manner and who shall confirm, vary or reverse the decision of the Minister. R.S., c. 371, s. 15; 2019, c. 37, s. 7.

Width of new or altered highway and acceptance of road or allowance

16 (1) Any new highway or any alteration of an existing highway shall be at least twenty metres in width, but may be laid out less in width than twenty metres if the Minister deems a lesser width sufficient for the public convenience.

(2) No road or allowance for a road laid out, made or set aside by any person other than the Minister or some person acting on the Minister's behalf after the twenty-first day of March, 1953, becomes a public highway for the purposes of this Act until the Minister indicates formally that the Minister accepts the road or allowance as a public highway for the purposes of this Act. R.S., c. 371, s. 16; 2019, c. 37, s. 8.

Possession or user or occupation gives no title

17 Possession, occupation, user or obstruction of a highway or any part thereof by any person for any time whatever, whether before, on or after the twenty-first day of March, 1953, shall not be deemed to have given or to give to any person any estate, right, title or interest therein, or thereto, or in respect thereof, but the highway or part thereof shall, notwithstanding such possession, occupation, user or obstruction be and remain a common and public highway. R.S., c. 371, s. 17.

Power to extinguish public right to use highway

18 (1) The Governor in Council may extinguish the right of the public to use any highway or any part thereof.

(1A) The Governor in Council may make regulations authorizing the Minister to extinguish the right of the public to use any highway or any part thereof subject to such conditions as the regulations may provide.

(1B) Where authorized by the regulations, the Minister may, by order, extinguish the right of the public to use any highway or any part thereof.

(2) A true copy of an order in council or an order of the Minister extinguishing the right of the public to use a highway or any part thereof and setting forth a description of such highway or part thereof shall be filed in the office of the registrar of deeds for the registration district or in the land registry office in which the highway or part thereof is situate.

(3) *repealed 2006, c. 16, s. 9.*

R.S., c. 371, s. 18; 2006, c. 16, s. 9; 2019, c. 37, s. 9.

USE OF HIGHWAY

Regulations for use and protection of highway

19 (1) The Governor in Council may make regulations for the use and protection of the highways or any portion thereof, and in particular but without limiting the generality of the foregoing, respecting

- (a) traffic on highways;
- (b) the weight of vehicles and the contents thereof upon the highways;
- (c) the width of tires on the wheels of vehicles;
- (d) the conveyance of articles of burden, goods, wares, merchandise and buildings on the highways;
- (e) the use of chained or armoured tires on motor vehicles.

(2) The Governor in Council may prescribe penalties for the violation of such regulations. R.S., c. 371, s. 19.

Closure of highway

20 (1) The Minister or a person designated by the Minister may close any highway or any part of any highway to all traffic or to any class or classes of traffic for such time and from time to time as the Minister or the person designated by the Minister deems expedient, or from time to time may prescribe the terms and conditions on which all traffic or any class or classes of traffic will be permitted on any highway or on any part of any highway.

(1A) An order made under subsection (1) or terms or conditions prescribed under subsection (1) shall be published in a newspaper of general circulation in the area affected by the order or the terms or conditions and, notwithstanding the *Regulations Act*, the order or terms or conditions are effective upon such publication.

(2) Any person who uses a highway or part of a highway in violation of an order made under subsection (1) or contrary to any terms or conditions prescribed under subsection (1) is liable to a penalty not exceeding one hundred dollars, and in default of payment thereof to imprisonment for not more than thirty days.

(3) Any person, who violates or fails to comply with any order made under this Section that limits the weights or axle weights of vehicles or prescribes the maximum weight or axle weight of vehicles that may be operated on a highway or part of a highway, is liable, in addition to any other penalty prescribed by this Act, to a further penalty of

(a) one dollar and twenty-five cents for each 50 kilograms by which the weight or axle weight of the vehicle exceeds the weight limit or the maximum weight prescribed or fixed by the Minister by not more than 2,500 kilograms;

(b) two dollars and fifty cents for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit or maximum weight by more than 2,500 kilograms but by not more than 5,000 kilograms;

(c) three dollars and seventy-five cents for each 50 kilograms by which the weight, or the axle weight of the vehicle exceeds the said weight limit or maximum weight by more than 5,000 kilograms but by not more than 7,500 kilograms; and

(d) ten dollars for each 50 kilograms by which the weight or the axle weight of the vehicle exceeds the said weight limit by more than 7,500 kilograms,

(e) *repealed 1990, c. 44, s. 1.*

and, in default of payment of the said penalty, to imprisonment for not more than six months.

(4) For the purposes of calculating a penalty under subsection (3), a fraction of 50 kilograms that is greater than one half shall be counted as 50 kilograms.

(5) Where urgent action is necessary for the protection of the public or the maintenance of a highway, a person designated by the Minister may close any highway or any part of any highway to all traffic or to any class or classes of traffic for a temporary period or may prescribe the terms and conditions on which all traffic or any class or classes of traffic will be permitted on any highway or on any part of any highway for a temporary period.

(6) Where an order is made under subsection (5), signs may be posted restricting the use of the highway in accordance with the order and any person who does not comply with the direction on such a sign shall be guilty of an offence. R.S., c. 371, s. 20; 1990, c. 44, s. 1; 1994-95, c. 16, s. 2; 1999, c. 4, s. 30; 2001, c. 44, s. 11; 2019, c. 37, s. 12.

CONTROLLED ACCESS HIGHWAYS
AND PARKWAY AREAS**Designation of controlled access highway**

21 (1) The Governor in Council may designate as a controlled access highway

(a) any highway or part thereof in a municipality or any highway or part thereof in a city or town, towards the construction or maintenance of which the Province has contributed or contributes;

(b) any land owned by Her Majesty in right of the Province in a municipality upon which it is planned to construct a highway under this Act, or any land owned by Her Majesty in right of the Province in a city or town upon which it is planned that there be constructed a highway towards the construction or maintenance of which the Province will contribute;

(c) any lands reserved for highway purposes under Section 12.

(2) A copy of the order of the Governor in Council designating a highway or part thereof or any land as a controlled access highway shall be published in not less than two issues of the Royal Gazette and shall be filed in the registry of deeds or in the land registration office for the registration district in which the highway or part thereof or the land is situate, and notice thereof shall be posted by registered letter to the landowner or landowners concerned and displayed in a conspicuous place on the lands affected.

(3) Notwithstanding subsection (2), where the Governor in Council has designated, as a controlled access highway, a new highway or land upon which it is planned to construct a highway, it shall not be necessary to give notice of the designation by registered mail to the landowner or landowners concerned. R.S., c. 371, s. 21; 2019, c. 37, s. 13.

Prohibited activity

22 (1) Where a highway or portion thereof or any land has been designated as a controlled access highway, no person shall, without a written permit from the Minister,

(a) construct, use or allow the use of, any private road, entrance-way or gate which or part of which is connected with or opens upon the controlled access highway;

(b) sell, or offer or expose for sale, any vegetables, fruit, meat, fish or other produce, or any goods, wares or merchandise upon or within forty-five metres of the limit of the controlled access highway; or

(c) erect, construct or place or cause to be erected, constructed or placed, any building or other structure, or part thereof, or

extension or addition thereto upon or within sixty metres of the limit of the controlled access highway.

(2) Any person who violates this Section is liable to a penalty of not more than one hundred dollars and in default of payment to imprisonment for not more than one month.

(3) The Minister or any person acting by or under the Minister's authority may at any time close up any private road, entrance-way or gate constructed, opened or used in violation of this Section and, for that purpose, the Minister, the Minister's servants and agents, may enter, by force, if necessary, into and upon any land or part thereof.

(4) The Minister or any person acting by or under the Minister's authority may remove or demolish any building or other structure, or part thereof, or extension or addition thereto, erected, constructed or placed in violation of this Section and, for that purpose, ~~and~~ the Minister, the Minister's servants and agents, may enter[,] by force, if necessary, into and upon the land or part thereof.

(5) For the purposes of this Section, the expression "private road" includes a street, road or highway in a city, town or municipality other than a highway to which this Act applies. R.S., c. 371, s. 22; 2019, c. 39, s. 15.

Parkway area

23 (1) The Governor in Council may by regulation declare any area adjoining any highway outside the limits of a city or town to be a parkway area and may by such regulation define the limits of such area.

(2) No regulation made under subsection (1) shall be effective until a copy thereof certified by the Minister to be a true copy has been filed in the office of the registrar of deeds or the land registration office for the registration district in which the land or part thereof is situate.

(3) The Minister shall cause notice of any regulation made under subsection (1) to be given by registered prepaid post to the owner of land within the parkway area or, if the owner is not known to the Minister, by posting such notice in a conspicuous place on the land.

(4) No person shall, within any such parkway area, without written consent of the Minister,

- (a) erect, construct, alter or reconstruct any building;
- (b) fell or remove any tree, shrub or bush;
- (c) erect any fence, railing, wall or hedge.

(5) The Governor in Council may make regulations

- (a) designating the height, ground area and bulk of buildings erected, constructed, altered or reconstructed in any parkway area;

(b) prescribing building lines and the depth, size or area of yards, courts or other open spaces to be maintained in any parkway area;

(c) prescribing the maximum density of population permissible within any parkway area;

(d) prescribing or controlling the architectural design, character and appearance of any or all buildings proposed to be erected in any parkway area and prohibiting the erection of any building in contravention of such regulation.

(6) Every person who violates any of the provisions of this Section or any of the regulations made under this Section is liable to a penalty of not more than five hundred dollars and in default of payment to imprisonment for a period of not more than one hundred and twenty-five days.

(7) The Minister or any person acting by or under the Minister's authority may at any time remove or demolish, or cause to be removed or demolished, any building, structure, fence, railing, wall or hedge constructed or erected in violation of this Section or of any regulations made thereunder and the Minister, the Minister's servants or agents shall, for that purpose, have full power and authority to enter, by force if necessary, into and upon any land, building or other structure, or any part thereof. R.S., c. 371, s. 23; 2019, c. 37, s. 16.

Compensation for injurious affection

24 (1) Where, pursuant to Section 21 or Section 23 or any regulations made thereunder, property is injuriously affected, the owner thereof, in respect of any matter or thing that has not been the subject of compensation, shall be entitled to compensation for such injury.

(2) Any question as to whether any property is injuriously affected as aforesaid and as to the amount of payment and compensation shall be determined by arbitration and the provisions of the *Arbitration Act* shall apply.

(3) Notwithstanding subsection (1), where pursuant to Section 21 the Governor in Council designates as a controlled access highway

- (a) a new highway or a new portion of a highway;
- (b) any land reserved for highway purposes under Section 12; or
- (c) any land referred to in clause (b) of subsection (1) of Section 21,

the owner of property that adjoins such new highway, new portion of a highway or land shall not be entitled to compensation for injurious affection to that property resulting from the designation. R.S., c. 371, s. 24.

HIGHWAY CONSTRUCTION

Federal-provincial highway agreement

25 (1) With the approval of the Governor in Council, the Minister may enter into and carry out an agreement with the Government of Canada or a minister thereof for the construction within the Province of highways or portions thereof as part of a trans-Canada highway or of any other highway at the joint expense of Canada and of the Province and upon such terms and conditions as may be agreed upon.

(2) The Governor in Council may designate any highway or portion thereof to be and to form a part of a trans-Canada highway. R.S., c. 371, s. 25.

Agreement between Province and city or town

26 (1) The Minister, with the approval of the Governor in Council, and any city or town are authorized to make, enter into and carry out an agreement to co-operate in such manner as may be agreed on in the construction, reconstruction or maintenance of any highway or any part thereof in the city or town if, in the opinion of the Minister, the highway forms a connecting link in a main trunk highway of the Province, or is a main highway leading into or through the city or town, and are authorized to make all necessary expenditures in connection therewith, provided always that such agreement does not require the Minister to undertake more than fifty per cent of the cost of construction, reconstruction or maintenance of any portion of any such highway.

(2) Notwithstanding subsection (1), an agreement for the purposes mentioned in subsection (1) may require the Minister to undertake to bear

(a) a percentage of the cost of construction, reconstruction or maintenance of a highway or portion thereof in a city or town equal to the provincial proportion of the cost of the foundation program of education in the city or town as determined from time to time under the *Education Act* and not less than fifty per cent of the cost of the construction, reconstruction or maintenance; and

(b) more than fifty per cent of the cost of construction, reconstruction or maintenance of a bridge on any portion of any such highway if the bridge exceeds three metres in shortest length between the front faces of its end supports.

(3) Where a highway in a city or town is being constructed, reconstructed or repaired, under an agreement under this Section and where any pole, wire, conduit, pipe, fence or other object has been or is hereafter erected or placed in, upon, along, under or across such highway, whether or not it was or is hereafter so erected or placed by or under the authority of any special or general Act, the Minister or any person acting by or with the Minister's authority may notify either the person or corporation owning, or the person or corporation using the same, to remove it.

(4) If the requirements of such notice are not complied with within seven days from the giving of the notice, any person acting by or with the authority of the Minister may remove such pole, wire, conduit, pipe, fence or other object at the cost, charge and expense of the person or corporation so notified, and the amount of those costs, charges and expenses may be recovered with costs from such person or corporation in any court of competent jurisdiction in an action brought by and in the name of the Minister. R.S., c. 371, s. 26; 2019, c. 37, s. 17.

Power of Minister respecting highway in city or town

27 (1) Notwithstanding any other provisions of this Act, the Minister, for the purpose of providing a more direct or more expeditious route for traffic through a city or town, may construct and maintain a highway or a portion of a highway within the boundaries of a city or town.

(2) A city or town, within which a highway or a portion of a highway is being or is proposed to be constructed or maintained pursuant to this Section, may co-operate or participate with the Minister in the construction and maintenance of the highway in such manner and to such extent as may be agreed upon by the city or town and the Minister, and may make all necessary expenditures in connection therewith.

(3) Sections 11 to 22, 24, 25, 32, and 39 to 49 apply to a highway or a portion of a highway constructed pursuant to this Section. R.S., c. 371, s. 27.

Improvement of highway by municipality

28 (1) A municipality shall not effect improvements of a permanent character on any highway, unless it

(a) submits to the Minister plans, specifications, estimates and other particulars respecting the proposed improvements;

(b) satisfies the Minister that suitable provision will be made for the future maintenance of such highway after it has been so improved; and

(c) obtains the Minister's written consent.

(2) The municipality may, after compliance with the conditions set out in subsection (1), enter into an agreement with the Minister for the carrying out of such improvement by the municipality, the Minister or some other person upon such terms and subject to such conditions as the Minister prescribes and the Governor in Council approves.

(3) The costs of any such improvements shall be apportioned between the municipality and the Province in the manner agreed upon by them.

(4) Any sum payable by the Province shall not exceed one half of the whole cost of the improvement. R.S., c. 371, s. 28; 2019, c. 37, s. 18.

Borrowing powers of municipality

29 (1) The council of a municipality that enters into an agreement pursuant to Section 28 may borrow from time to time on the credit of the municipality such sums as are necessary to carry out the objects of the agreement, and, for the purpose of effecting such loans, may make and issue, subject to the *Municipal Government Act* debentures of the municipality in such sums and bearing such rate of interest and redeemable within such period as the council determines.

(2) Such debentures shall be a charge upon the property and revenues of the municipality. R.S., c. 371, s. 29; 2019, c. 37, s. 19.

Retirement of debenture

30 The council of a municipality that issues debentures under this Act shall annually add to the amount to be assessed and levied upon the real and personal property of the municipality a sum sufficient to pay the interest on the debentures and the expense of collecting and disbursing the same, and shall also provide an adequate sinking fund for the payment of the debentures at maturity. R.S., c. 371, s. 30.

31 *repealed 1994-95, c. 7, s. 96.*

Authorization by Minister to make improvement

32 The Minister may, on such terms and conditions as the Minister deems expedient,

- (a) authorize any person to make improvements on any highway or any part thereof; or
- (b) enter into and carry out an agreement with any person to cooperate in the making of such improvements or any part thereof. R.S., c. 371, s. 32; 2019, c. 37, s. 20.

SNOW REMOVAL

33 to 36 *repealed 2019, c. 37, s. 21.*

Provincial-municipal snow removal agreement

37 (1) The Minister, with the approval of the Governor in Council, may make, enter into and carry out an agreement with any municipality to cooperate in such manner as may be agreed upon in the removal of snow from any highway in the municipality and the Minister may make all necessary expenditures in connection therewith.

(2) Every municipality is authorized to receive and accept any grant or other assistance from any person, firm or corporation to defray or assist in defraying the cost of carrying out any such agreement. R.S., c. 371, s. 37.

Special tax for snow removal

38 (1) Notwithstanding any other provisions of this Act, the council of a municipality may by by-law provide for all or any portion of any expense of the removal of snow on any highway by the imposition of a special tax.

(2) Such special tax may, in the discretion of the council, be imposed in respect of all or any class or classes of persons or property within the municipality.

(3) The council may impose and collect such special tax in respect of any district or districts of the municipality whether or not such expense is incurred in respect of a road within any such districts, sections or divisions, and the council may impose a different rate of tax in different districts, sections or divisions.

(4) Such tax may be imposed notwithstanding that the council votes, rates, collects, receives, appropriates and pays any sum of money for the expense of removing snow from any highway or road or for making any highway or road passable in winter.

(5) All sums of money voted, rated, levied or imposed and all sums of money received by way of grant or other assistance or of any agreement shall be kept in a separate account to be known as the Snow Removal Fund and shall be used only towards the expense of the removal of snow from highways or for making roads passable in winter including the acquiring or purchasing of materials, machinery, implements and plant deemed requisite or advisable therefor. R.S., c. 371, s. 38; 2019, c. 37, s. 22.

Erection of snow fence and removal of obstruction

39 (1) The Minister, or any person acting by or under the Minister's authority, may, on or after the first day of November in each year, enter into and upon the land of any person which adjoins the highway and erect and maintain snow fences upon such land or take down, alter or remove any fence or other obstruction of whatsoever kind which causes drifts or an accumulation of snow so as to impede or obstruct traffic.

(2) Every snow fence so erected shall be removed and every fence or other obstruction so taken down, altered or removed shall be replaced or restored on or before the fifteenth day of May then next following.

(3) A person who obstructs any person acting under the authority of the Minister in carrying out any work referred to in subsections (1) and (2) is liable to a penalty of not more than fifty dollars, and in default of payment thereof to imprisonment for not more than fifteen days. R.S., c. 371, s. 39; 2019, c. 37, s. 23.

OBSTRUCTIONS ON OR NEAR HIGHWAY**Obstructing highway, drain, gutter, sluice or watercourse**

40 (1) Any person who

- (a) places an obstruction on a highway;
- (b) places an obstruction in a drain, gutter, sluice or water-course on a highway;
- (c) prevents by a dam or obstruction water flowing from the highway on to the adjoining land whether or not the person is the owner or occupant of such land; or
- (d) causes water to flow over the highway,

is liable to a penalty of not more than fifty dollars and in default of payment thereof to imprisonment for not more than fifteen days.

(2) The cost of removing any such obstruction or dam and of repairing any damage caused by it or by water may be recovered from such person by, and in the name of, the Minister as in an action of debt.

(3) Where an obstruction or dam is on land adjacent to a highway, the Minister, or any person acting under the Minister's instructions, may enter the land and remove the dam or obstruction or demolish or destroy it.

(4) Where any obstruction is a structure of any kind the Minister, the Deputy Minister or a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister may notify the owner thereof to remove the structure from the highway within such time as the Minister, the Deputy Minister or the person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister specifies and at the owner's expense.

(5) Such notice may be served by any literate person upon the person to whom it is directed either personally, or, if such person cannot conveniently be met with, by leaving it for the person at the person's last or most usual place of abode, with some inmate thereof, apparently not under sixteen years of age.

(6) There shall be attached to every such notice a copy of this Section headed "Extract from the *Public Highways Act*".

(7) Where the Minister or Deputy Minister or a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister gives any such notice and such structure is not removed within the time specified, the Minister or Deputy Minister or the person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister may remove, demolish or destroy, or cause to be removed, demolished or destroyed, such structure in such manner as the ~~Minister's~~ [Minister] deems expedient.

(8) All persons who so erect, construct or place or cause to be erected, constructed or placed any such building, structure, fence, railing, wall, tree or hedge or part thereof are jointly and severally liable for the expense of such removal or demolition and the expense may be recovered with costs from any such

person or persons in any court of competent jurisdiction by action on behalf of Her Majesty in right of the Province. R.S., c. 371, s. 40; 1994-95, c. 16, s. 3; revision corrected 1999; 2019, c. 37, s. 24.

Stopping or clogging drain or watercourse on highway

41 Any owner or occupant of land adjoining a highway, who permits any drain, gutter, sluice or watercourse on the highway and bordering on such land to be stopped or clogged for any purpose whatever, is liable to a penalty of not more than fifty dollars and in default of payment to imprisonment for not more than fifteen days. R.S., c. 371, s. 41.

No structure within 100 metres of fence, hedge, etc. on highway

42 (1) Subject to subsection (1) of Section 22 and unless the consent in writing of the Minister has been first obtained, no person shall erect, construct or place or cause to be erected, constructed or placed, any building or other structure, or part thereof, or extension or addition thereto, upon any highway or within one hundred metres from the centre line of the travelled portion of any highway.

(2) No person shall erect, construct or place or cause to be erected, constructed or placed any fence, railing, wall, tree or hedge or part thereof upon any highway.

(3) Any person who, in contravention of this Section,

(a) having erected, constructed or placed or caused to be erected, constructed or placed any such building or other structure or part thereof or extension or addition thereto; or

(b) having erected, constructed, or placed or caused to be erected, constructed or placed any such fence, railing, wall, tree or hedge or part thereof,

fails to remove the same, within ten days after service upon the person of a notice from the Minister, Deputy Minister or a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister so to do, is liable to a penalty of not more than twenty dollars and in default of payment to imprisonment for not more than five days, and every day that such failure continues constitutes a separate offence.

(4) Such notice may be served by any literate person upon the person to whom it is directed either personally, or, if the person cannot conveniently be met with, by leaving it for the person at the person's last or most usual place of abode, with some inmate thereof, apparently not under sixteen years of age.

(5) There shall be attached to every such notice a copy of this Section headed "Extract from the *Public Highways Act*".

(6) The Minister, or any person acting by or under the Minister's authority, may at any time after ten days from the service of such notice, remove or

demolish or cause to be removed or demolished any such building, structure, fence, railing, wall, tree or hedge or part thereof in such manner as he deems expedient.

(7) All persons who so erect, construct or place or cause to be erected, constructed or placed any such building, structure, fence, railing, wall, tree or hedge or part thereof are jointly and severally liable for the expense of such removal or demolition and the expense may be recovered with costs from any such person or persons in any court of competent jurisdiction by action on behalf of Her Majesty in right of the Province. R.S., c. 371, s. 42; 1994-95, c. 16, s. 4; 2019, c. 37, s. 26.

No garbage on highway or in drain, gutter, sluice or watercourse

43 (1) No person shall

(a) deposit any sewage, refuse, garbage, rubbish or other matter on any highway or in any drain, gutter, sluice or watercourse on any highway; or

(b) cause, suffer or permit any sewage, refuse, garbage, rubbish or other matter to discharge or flow upon any highway or into any drain, gutter, sluice or watercourse on any highway.

(2) Every person who violates this Section is liable to a penalty of not less than two hundred and fifty dollars and in default of payment to imprisonment for a term not exceeding fifteen days, and in addition to such penalty is liable for the expense of removing such sewage, refuse or other matter or of preventing such discharge or flow.

(3) The Minister may sue for and recover all such expenses in any court of competent jurisdiction. R.S., c. 371, s. 43.

Construction of drain or watercourse

44 (1) The Minister, or any person acting on the Minister's instructions, may at any time and from time to time construct, open, maintain or repair any drain, gutter, sluice or watercourse upon any land adjoining a highway and for such purpose may at any time and from time to time enter into and upon any such land.

(2) Any person who hinders or obstructs the Minister, or any person acting on the Minister's instructions, in the exercise of any power or authority conferred by this Section is liable to a penalty of not more than one hundred dollars and in default of payment to imprisonment for a term of not more than thirty days. R.S., c. 371, s. 44; 2019, c. 37, s. 28.

Damage from water collected on land

45 (1) Any owner or occupant of land, who collects water upon that person's land, and turns or allows such water to flow upon the highway, is liable for all damage to the highway, gutters or drains occasioned thereby.

(2) The Minister may sue for and recover in any court of competent jurisdiction the damages occasioned as aforesaid by such water.

(3) If by reason of the collection of such water the flow requires, in the opinion of the Minister, the construction of a larger drain, sluice or culvert on the highway, or makes necessary any alteration in the highway, or the building of new drains, sluices or culverts, such person is liable to pay the expenses of any such alteration or construction. R.S., c. 371, s. 45; 2019, c. 37, s. 29.

Pole or wire on highway

46 (1) Notwithstanding any special or general Act authorizing, permitting or sanctioning the constructing, erecting, placing, setting, maintaining, or keeping on, or over or under any highway of any telegraph, telephone, electric light, power, or other pole, or of any wires, fixtures or attachments, or the constructing, erecting, placing, setting, maintaining, or keeping on, or over, or under any highway of any object or thing whatsoever, whether or not of the kind hereinbefore enumerated, all such poles, wires, fixtures, attachments, and all such objects and things that on the eighteenth day of May, 1920, are lawfully on or over or under any highway in any municipality shall be held to be there solely by the leave and license and during the pleasure of the Minister, and on such terms and conditions as from time to time the Minister thinks fit to impose.

(2) Any person or corporation with the consent of the Minister and until such consent is revoked and upon such terms and conditions as from time to time the Minister thinks fit, either generally or in any particular case, to impose, may, in any municipality, erect, place, set and maintain on any highway any such poles, wires, fixtures and attachments and construct, erect, place and maintain and keep thereon, or thereover, or thereunder any such object or thing and break up the soil of any such highway, and where any such poles, wires, fixtures, attachments, objects or things have without proper authority been constructed, erected, placed or set on, under or over any such highway before the eighteenth day of May, 1920, to keep the same erected, set or placed and to maintain the same.

(3) All provisions of any special or general Act vesting in any municipality or any public body, powers vested in the Minister by this Section or similar powers with respect to the matters referred to in this Section are repealed.

(4) Notwithstanding any special or general Act, no person or corporation shall, except as in this Act provided, erect, place, set or maintain any such telegraph, telephone, electric light, or power pole or wire, fixture, or attachment or construct, erect, place, maintain or keep thereon or thereover, or thereunder any such object or thing on any highway in any municipality other than a city or town or break up the soil of any such highway. R.S., c. 371, s. 46.

Application to break up soil of highway

47 (1) No person shall break up the soil of a highway without first making application in writing to a person employed in the public service of the Province in the Department of Transportation and Infrastructure Renewal designated by the Minister, specifying the purpose for which it is required to so break up the soil, and obtaining the person employed by the Minister's permission therefor in writing.

(2) The person designated by the Minister pursuant to subsection (1) may impose such terms upon the person applying as the person considers necessary for the protection of persons using the highway and for the prevention of damage to the highway or to other property.

(3) Any person who breaks up the soil of a highway without such permission, or in contravention of the terms imposed, is liable to a penalty of not more than one hundred dollars, and in default of payment to imprisonment for not more than thirty days. R.S., c. 371, s. 47; 1994-95, c. 16, s. 5; 2019, c. 37, s. 30.

ADVERTISING SIGNS

Penalty for dangerous advertising sign

48 (1) The owner or occupant of land adjoining a highway who erects or maintains, or permits the erecting or maintaining on that land, of any advertising sign or bill-board that, in the opinion of the Minister, is a menace or source of danger to traffic on the highway and who fails to remove such advertising sign or bill-board within ten days after the receipt of notice from the Minister to remove the same is liable to a penalty of not more than one thousand dollars, and in default of payment to imprisonment for not more than five days, for each day such failure continues after the receipt of the said notice.

(2) The notice may be served personally or by letter mailed at Halifax, postage prepaid and registered, addressed to the owner or occupant at that person's nearest post office and shall be deemed to be received at the time of service or mailing. R.S., c. 371, s. 48; 2001, c. 12, s. 22; 2019, c. 37, s. 31.

Regulations respecting advertisement

49 (1) The Minister, with the approval of the Governor in Council, may make regulations

(a) prohibiting or regulating the erecting, maintaining, pasting, painting or exposing of advertisements upon or within one thousand metres from the centre line of the travelled portion of any highway or class of highway vested in Her Majesty in right of the Province, whether or not the highway is within a city or town;

(b) *repealed 2001, c. 12, s. 23.*

(c) providing for licenses for erecting or maintaining or pasting or painting or exposing any such advertisements, and prescribing the terms, fees and conditions under which licenses may be issued and that the issuing of any license shall be absolutely discretionary, provided that where a license is so granted, nothing in this Section shall interfere with the right of any city, town or municipality to impose a license fee in respect of any such advertisement.

(2) A person who, contrary to any such regulation, erects, maintains, pastes, paints or exposes an advertisement or permits an advertisement to be

erected, maintained, pasted, painted or exposed, is liable on summary conviction to a penalty of not more than one thousand dollars and, in default of payment, to imprisonment for not more than thirty days.

(3) Any person who destroys or defaces any advertisement, either lawfully authorized under this Section or the property of Her Majesty in right of the Province, is liable to a penalty of not more than one thousand dollars in addition to the value of the property defaced or destroyed, and, in default of payment, to imprisonment for not more than thirty days.

(4) The owner or occupant of land upon which an advertisement is erected, maintained, pasted, painted or exposed contrary to such regulations, who fails to remove the advertisement within ten days after notice from the Minister requiring the owner or occupant to do so, is liable on summary conviction to a penalty of not more than one thousand dollars and, in default of payment, to imprisonment for not more than ten days.

(5) The notice referred to in subsection (4) may be served personally or by letter mailed at Halifax, postage prepaid and registered, addressed to the owner or occupant at that person's nearest post office, and shall be deemed to be received at the time of service or mailing.

(6) Any advertisement erected, maintained, pasted, painted or exposed contrary to any of the provisions of any such regulation, may with or without notice to any person interested therein, be removed by any officer, agent or servant of the Minister and such officer, agent or servant shall for that purpose have full power and authority to enter into and upon any land or building with or without the consent of any person interested therein, and such advertisement shall be disposed of as the Minister deems expedient.

(7) In this Section the expression "advertisement" includes any sign, placard, boarding, bill-board or any other form or means or device whatsoever of public notice or announcement whether erected, pasted or painted, and also includes any sign, placard, boarding or bill-board or other device or medium intended or suitable or adapted as a form or means of public notice or announcement whether or not the same is at the time actually used for such purpose, but does not include a campaign sign during an election or plebiscite in the area in which the sign is located if the sign complies with the laws governing the election or plebiscite. R.S., c. 371, s. 49; 2001, c. 12, s. 23; 2019, c. 37, s. 32.

Non-controlled access highways

49A (1) In this Section,

- (a) "by-law" means a by-law made pursuant to this Section;
- (b) "highway" means a highway vested in Her Majesty in right of the Province.

(2) Subject to subsections (3), (4) and (6), the council of a municipality may make a by-law prohibiting or regulating the erecting, maintaining, pasting, painting or exposing of advertisements upon any part of a highway located within the municipality and designated in the by-law.

(3) The Minister may

- (a) approve all or part of the by-law and from time to time approve other parts or the remainder of the by-law;
- (b) attach any condition to the approval of the by-law;
- (c) approve the by-law with amendments;
- (d) revoke or from time to time vary the approval or any condition, either in whole or in part.

(4) A by-law, or an amendment to a by-law, is effective upon and subject to approval pursuant to subsection (3) and ceases to have effect upon the revocation of that approval or repeal of the by-law with the approval of the Minister.

(5) Where any part of a highway becomes subject to a by-law, no regulation made under Section 49 applies to it and any licences issued under any such regulation cease to have any force or effect.

(6) Subsection (2) does not apply to any part of a highway that has been designated as a controlled access highway by the Governor in Council pursuant to Section 21 and, where any part of a highway that is subject to a by-law is designated as a controlled access highway pursuant to that Section, the by-law ceases to apply to that part.

(7) For greater certainty,

- (a) a municipality that makes a by-law is not an agent of Her Majesty in right of the Province;
- (b) a person employed or engaged by a municipality is not an officer, servant or agent of Her Majesty in right of the Province; and
- (c) Her Majesty in right of the Province is not liable for any act or omission of a municipality. 2011, c. 3, s. 2.

Sign displaying name or logo

50 (1) Upon application and payment of such fee as the Minister may determine, the Minister may permit the placement on a highway, adjacent to the travelled portion of the highway, of a sign displaying a name or logo advertising fuel, food, accommodation or farm-market services or such services as the Governor in Council may designate by regulation, subject to such conditions as the Minister may determine.

(2) The Governor in Council may make regulations designating services for the purpose of subsection (1). 2001, c. 12, s. 50.

No-sign zone for protection of scenic view

51 (1) Upon the recommendation of the council of a municipality or a village commission, the Minister may, for the protection of a scenic view, designate a highway or portion of a highway within the municipality or village as a no-sign zone.

(2) Upon designation of a highway or portion of a highway pursuant to subsection (1), no advertising sign may be erected, maintained, pasted, painted or exposed upon or within one thousand metres from the centre line of the travelled portion of the highway or portion of a highway, as the case may be. 2001, c. 12, s. 51.
