



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **UNSIGHTLY PROPERTY ACT**

## PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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## UNSIGHTLY PROPERTY ACT

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## UNSIGHTLY PROPERTY ACT

### CHAPTER U-5

#### 1. Definitions

In this Act

- (a) “**antique motor vehicle**” means a vehicle
- (i) which is at least thirty years old or a classic recognized by the Classic Car Club of America,
  - (ii) which has been certified by an inspector for authenticity, running order and safety,
  - (iii) which is an insured motor vehicle,
  - (iv) which is not used as a private passenger vehicle or for commercial purposes, and
  - (v) the owner of which is a member of the Prince Edward Island Antique Auto Club and has one or more vehicles registered in his name;
- (a.1) “**Commission**” means the Island Regulatory and Appeals Commission established under section 2 of the *Island Regulatory and Appeals Commission Act* R.S.P.E.I. 1988, Cap. I-11;
- (b) “**dilapidated building or structure**” includes a building or structure, with or without structural deficiencies, that by virtue of a broken window, torn roofing or other defects is in a condition of substantial disrepair;
- (b.1) “**derelict motor vehicle**” means a motor vehicle as defined in the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5 that
- (i) does not display on the windshield affixed to the motor vehicle, a valid unexpired motor vehicle inspection approval sticker issued under the *Highway Traffic Act*,
  - (ii) is
    - (A) inoperative by reason of removed wheels, battery, motor, transmission or other parts or equipment necessary for its operation, or
    - (B) in a state of disrepair or is unsightly by reason of missing doors, glass or body parts,
- but does not include an antique motor vehicle;
- (b.2) “**highway**” means the entire width between the boundary lines of every street, road, lane, alley, park or place where any part thereof is used by the general public for the passage of vehicles, and includes bridges;
- (c) “**inspector**” means any person appointed by the Minister as an inspector under this Act;
- (d) “**litter**” means

- (i) rubbish, refuse, garbage, waste materials, papers, packages, containers, bottles, cans or parts thereof,
- (ii) any article, product, machinery, mobile home or other manufactured goods which are dumped, discarded, abandoned or otherwise disposed of,
- (iii) any other thing that may be designated as litter in the regulations;
- (e) “**Minister**” means the Minister designated by the Lieutenant Governor in Council to have the administration of this Act;
- (e.1) “**occupier**” includes
  - (i) a person who is in physical possession of real property, or
  - (ii) a person who has responsibility for and control over the condition of real property or the activities carried on there;
- (f) repealed by 1991, c.48, s.1;
- (g) “**order**” means a clean-up order issued under this Act;
- (g.1) “**unsightly building or structure**” includes a building or structure
  - (i) that is a dilapidated building or structure,
  - (ii) the condition of which significantly depreciates the value of land or buildings in the vicinity, or
  - (iii) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure is not maintained;
- (h) “**unsightly property**” means any real property or part thereof upon which there is litter, derelict motor vehicles or parts thereof or dilapidated or unsightly buildings, structures or parts thereof, which causes the real property or any part thereof to look unsightly. 1975, c.32, s.1; 1977, c.43, s.1; 1987, c.69, s.1; 1991, c.18, s.22; 1991, c.48, s.1; 1992, c.70, s.1; 2016, c.58, s.1.

## 2. Inspectors

- (1) The Minister may appoint persons as inspectors for the purposes of this Act.

### *Idem*

- (1.1) A conservation officer appointed under the *Wildlife Conservation Act* R.S.P.E.I. 1988, Cap. W-4.1 is an inspector by virtue of his or her office.

### **Clean-up order**

- (2) Where an inspector believes, on reasonable and probable grounds, that any real property is unsightly property, the inspector may issue a clean-up order. 1975, c.32, s.2; 1994, c.64, s.1; 2006, c.16, s.63(13).

## 3. Order issued to

- (1) Subject to subsection (2), the clean-up order shall be issued to

- (a) the owner of the property;
- (b) the occupier of the property; or
- (c) a person who caused or contributed to the unsightly condition of the property.

### *Idem*

- (2) Where the inspector is satisfied that a person other than the owner or the occupier of the property caused or contributed to the unsightly condition of the property, and the owner and

the occupier, if any, agree to permit that other person to come onto the property for the purpose of complying with a clean-up order, a clean-up order may be issued to that other person. *1975, c.32, s.3; 2016, c.58, s.2.*

#### **4. Contents of order**

The order may require the person to whom it is addressed, within a period of time specified in the order

- (a) to remedy the condition of the property in a manner and to the extent directed in the order;
- (b) to demolish any dilapidated buildings, structures or parts thereof, or to remove any litter causing or contributing to the unsightliness of the property;
- (c) to construct anything to prevent the property from being viewed;
- (d) to do any other thing to remedy the unsightliness of the property; or
- (e) to do all or any of the matters specified in clauses (a) to (d). *1975, c.32, s.4; 1976, c.32, s.1; 2016, c.58, s.3.*

#### **5. Service of order**

- (1) The order shall be served on the person to be notified
  - (a) by personal delivery thereof to that person;
  - (b) by posting the order by registered mail with postage prepaid addressed to that person at the person's latest known address; or
  - (c) where the address of that person is unknown by posting the order in a conspicuous place on the property.

##### **Date of service deemed**

- (2) The date of the service of the order under subsection (1) shall be
  - (a) on the date of delivery where personal service is made;
  - (b) on the fifth day after deposit in the mail where service by mail is made; or
  - (c) on the date of the posting where posting is made on the property.

##### **Proof of service, by certificate**

- (3) Proof of the service of the clean-up order may be made by a certificate signed by the person serving the order setting forth the manner in which service was made and specifying the time of service.

##### **Certificate proof of certain matters**

- (4) A certificate made under subsection (3)
  - (a) is proof of the signature of the person certifying; and
  - (b) is proof that the person named in the order received notice of the matters referred to in the order. *1975, c.32, s.5; 2016, c.58, s.4.*

#### **6. Duration of order**

An order continues in force for period of twelve months from the date on which it is served on the person to whom it is addressed and, if that person permits the property that is the subject of the order to revert to being an unsightly property while the order is in force, the person shall be deemed to have failed to comply with the order and it may be enforced

against the person accordingly, but without prejudice to the issue of a new order under section 2 in respect of that property. *1977,c.43,s.2; 2016,c.58,s.5.*

#### **7. Right of appeal to Commission**

- (1) A person to whom an order is issued under subsection 2(2) may, within twenty-one days from the date of service, appeal the order by serving a notice of appeal on the Commission.

##### **Notice of appeal**

- (2) A notice of appeal served on the Commission under this section shall be in writing, on a form approved by the Commission, and shall state the grounds for the appeal, the relief sought and the name and address of the person making the appeal.

##### **Not a stay**

- (3) The service of a written notice of appeal under this section does not operate as a stay of, and shall not in any way affect, the order.

##### **Notice of hearing**

- (4) In any appeal under this section, the Commission shall serve notice upon the Minister and the person making the appeal of the date, time and place at which the appeal will be heard.

##### **Idem**

- (5) Where a notice is served by the Commission under subsection (4), the notice may be served personally, or
- (a) if the notice is served by mail on the Minister, by mailing the notice to the business address of the Minister; or
  - (b) if the notice is served by mail on a person making the appeal, by mailing the notice to the address on the person's notice of appeal.

##### **Deemed service**

- (6) Where service referred to in subsection (5) is made by mail, the service shall be deemed to be made on the fifth day after the date of mailing, unless the person on whom service is being made establishes that the person, acting in good faith, through absence, accident, illness or other cause beyond the person's control, did not receive the notice until a later date.

##### **Procedure**

- (7) The Commission shall, when hearing an appeal, determine its own procedure, subject to adherence to the rules of natural justice.

##### **Order**

- (8) The Commission shall hear and decide an appeal and shall issue an order giving effect to its disposition.

##### **Idem**

- (9) The Commission may vary, confirm or rescind the order being appealed.

##### **Reasons for decision**

- (10) The Commission shall give written reasons for its decision and shall provide a certified copy of its decision and order to the person making the appeal and to the Minister. *1975,c.32,s.6; 2016,c.58,s.6.*



**8-11 Appeal procedure**

Repealed by 2016,c.58,s.6; 1975,c.32,s.7; 1991,c.18,s.22; 2016,c.58,s.6.

**12. Failure to comply with order, remedies open to inspector**

Where a person on whom an order has been served fails to comply with the order or an order of the Commission made under section 7, the inspector may carry out the directives contained in the order and charge the costs of the work done to the person to whom the order was issued and the person so charged is personally liable therefor; neither the Minister nor the inspector is personally liable for any action taken under this section, nor for the costs of any goods, materials or labour incurred in exercising powers vested in the inspector under this section. 1975,c.32,s.11; 1976,c.32,s.2; 2016,c.58,s.7.

**13. Order for costs of remediation**

- (1) The Minister may issue an order for the costs of carrying out the work done under section 12 against the person to whom the order was issued.

**Filed order has effect as judgment**

- (2) An order for the costs of remediation made under subsection (1) may be filed with the Registrar of the Court of Appeal and the Supreme Court at any time following thirty days after it is issued and, when so filed, the order is of the same force and effect as if it were a judgment. 1975,c.32,s.12; 1991,c.47,s.1; 2016,c.58,s.8; 2018,c.63,s.1.

**14. Right of entry by inspectors**

- (1) An inspector may at any reasonable time enter onto or into any real or personal property, other than a dwelling for the purpose of
- (a) determining whether motor vehicles causing the property to be unsightly are derelict motor vehicles as defined in this Act;
  - (b) determining the ownership of the unsightly property;
  - (c) determining whether a clean-up order made under this Act is being complied with;
  - (d) determining whether there is a non-compliance with or violation of this Act; and
  - (e) exercising the powers vested in an inspector under section 12.

**Offences and penalties**

- (2) Any person who prevents or obstructs or attempts to prevent or obstruct any entry under subsection (1) is guilty of an offence and liable on summary conviction to a fine of not less than \$100 and not more than \$1,000. 1975, c.32, s.13; 1977, c.43, s.3; 1991, c.48, s.1; 1994, c.64, s.2, 1994, c.58, s.6; 2016,c.58,s.9.

**15. Regulations**

The Lieutenant Governor in Council may make regulations concerning all such matters, acts and things as are necessary for the administration and enforcement of this Act, and in particular but not so as to restrict the generality of the foregoing, may make regulations in respect of the following matters:

- (a) designating or exempting any thing as litter;
- (b) governing the form, issue, content and nature of clean-up orders;
- (c) exempting any person or operation from any or all of the provisions of this Act;

- (d) disposal of derelict motor vehicles and any destruction of part or parts thereof; and
- (e) repealed by *1991,c.18,s.22. 1975,c.32,s.14; 1991,c.18,s.22; 1991,c.48,s.1.*

**16. Limitation of liability**

The inspectors and persons acting under their instructions, or under the authority of this Act or the regulations are not personally liable for any loss or damage suffered by any person by reason of anything in good faith done or omitted to be done in the exercise or purported exercise of any powers given by this Act or the regulations. *1975,c.32,s.15.*

**17. Offence for non-compliance with orders**

Every person who fails to comply with an order issued under this Act is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$2,000, each day that the non-compliance continues after a conviction under this section constitutes a separate offence and the person who so continues to fail to comply is subject to the said fine or imprisonment for each such day upon conviction therefor under this section. *1976,c.32,s.3; 1991,c.48,s.1; 1994,c.58,s.6.*

**18. Prohibition**

- (1) No person shall have, keep or maintain, or permit to be kept or maintained, upon property which the person owns or occupies, a derelict motor vehicle which is viewable from a highway.

**Offence**

- (2) Every person who violates this section is guilty of an offence and on summary conviction is liable to a fine of not less than \$200 and not more than \$2,000, and in default in payment thereof, is liable to imprisonment for thirty days.

**Continuing offence**

- (3) Each day that the non-compliance continues after a conviction under subsection (2) constitutes a separate offence and the person who so continues to fail to comply is subject to the said fine or imprisonment for each such day upon conviction therefor under this section.
- (4) This section does not apply to any person who has valid permit pursuant to the *Automobile Junkyards Act R.S.P.E.I. 1988, Cap. A-25. 1991,c.48,s.1; 2016,c.58,s.10.*