

### Relevant Legislation – Federal

The **Federal government of Canada** has legislation related to abandoned and derelict vessels;

In its essence the legislation confers responsibility for abandoned and derelict vessels on the **Canadian Coast Guard (Department of Fisheries and Oceans)** and **Transport Canada**.

Transport Canada [\*Wrecked, Abandoned or Hazardous Vessels Act\*](#) (2019)

As its central purpose, the Act aims to address irresponsible vessel management, which includes provisions that prohibit vessel abandonment and enhance federal powers to take proactive actions to address vessels of concern before they become a risk. The Act applies to Canadian and foreign registered vessels (from small pleasure crafts to commercial vessels) that are in Canadian waters.

The Act brings into Canadian law the [\*Nairobi International Convention on the Removal of Wrecks, 2007\*](#), making vessel owners liable for the cost of removing a vessel that represents an environmental hazard or that adversely impacts the safety of navigation.

### **Mandate**

Under the *Wrecked, Abandoned or Hazardous Vessels Act*, Transport Canada and the Department of Fisheries and Oceans (Canadian Coast Guard), work together to address vessels of concern and their impacts. Authorities under the Act are shared between the Minister of Transport and the Minister of Fisheries and Oceans, allowing them to effectively carry out their duties by ensuring that all parts of the Act are followed. Authorities that fall under each department are listed below.

### **Transport Canada**

Transport Canada is responsible for administering the *Wrecked, Abandoned or Hazardous Vessels Act* by monitoring compliance in all Canadian waters and the Exclusive Economic Zone (EEZ).

Administered by the [\*Navigation Protection Program \(NPP\)\*](#), the Act allows Transport Canada to:

- Protect the public right to use all navigable waters in Canada, and
- Protect Canada's navigable waters including coastal and shoreline communities from wrecked, abandoned, or worn-down (dilapidated) vessels.

Under the Act, the Minister of Transport has the authority to:

- Authorize the transfer of possession of any abandoned vessel to a third-party.
- Designate a person to be Receiver of Wreck, a custodian when a wreck owner is unknown or cannot be located.
- Order owners of vessels to address their worn-down (dilapidated) vessel if it has remained in the same location for 60 consecutive days without the consent of a person in charge of that location.
- Enforce prohibition of vessel abandonment.
- Take action to remove a vessel of concern, if the owner is unknown, or is unable or unwilling to respond.

- Hold the owners of vessels liable for the costs of moving or removing their vessel that is abandoned or worn-down.

### **Department of Fisheries and Oceans (Canadian Coast Guard)**

- Address all vessels and wrecks, including those that pose or may pose a hazard in all Canadian waters and in the exclusive economic zone of Canada (i.e., between 12 and 200 nautical miles from Canada's coastline).
- Coordinate and conduct hazard assessments on vessels and wrecks wherever located, including conducting enforcement actions.
- Enforce the Nairobi International Convention on the Removal of Wrecks, 2007 in Canadian waters and the exclusive economic zone of Canada. Specifically, ensuring that wrecks are properly reported, located, marked, and removed by the owner, as required in Part 1, and to take necessary measures if the owner is unknown, unable, or unwilling to act.
- Take appropriate actions on dilapidated vessels that are left on property under the responsibility of the Minister of Fisheries, Oceans.

### **Under the sections of the Act administered by Transport Canada, it is illegal to:**

- Abandon your vessel.
- Cause your vessel to become a wreck by failing to maintain it.
- Purposely sink, strand, or ground your vessel on purpose.
- Leave your vessel in poor condition, in the same area, for more than 60 consecutive days within a radius of 3 nautical miles without the authorization of the location owner.
- Leave your vessel adrift for more than 48 hours without taking measures to secure it.
- Take possession of a wreck before reporting it to the Receiver of Wreck, unless:
  - The wreck is in danger, and you need to take possession to secure or otherwise protect it; or
  - The Receiver of Wreck authorizes you to take possession.
- Entering Canada with a wreck found outside of Canadian waters without reporting it to the Receiver of Wreck as early as possible.

### **Penalties for non-compliance**

Failure to comply with provisions of the Act can result in enforcement actions being taken, which can include the issuance of administrative monetary penalties of up to \$50,000 for individuals and up to \$250,000 for corporations. Convictions on more serious offences could result in a maximum fine of \$1 million for individuals and \$6 million for corporations.

- For minor violations, the maximum penalty is \$5,000 for individuals.
- For serious violations, the maximum penalty is \$50,000 for individuals.

The Act requires the Minister of Transport to maintain and disclose a [public record of all penalties for non-compliance issued under the Act](#).

### **Reporting wrecked, abandoned or hazardous vessels (problem vessels)**

If you think you've found an abandoned boat or wreck, [report it](#).

### **Vessel of Concern Bulletin Board**

Under the [Wrecked, Abandoned or Hazardous Vessels Act](#), Transport Canada may sell, destroy or otherwise dispose of a vessel, a wreck or its content.

Transport Canada maintains a [Bulletin Board](#) which has a list of problem vessels for which the [Navigation Protection Program \(NPP\)](#) wants to take an action or is looking for the owner. You can consult the list of vessels and their reason for publication at the links below. Please contact your [regional NPP office](#) should you be the owner of one of these vessels, or should you have any additional information.

(2) The Minister of Fisheries and Oceans, an enforcement officer or any person authorized to exercise powers or perform duties or functions under this Act may, on their own initiative or on request, disclose to the Minister any information collected or obtained under this Act relating to the identity and contact information of an owner of a vessel, to the extent that the disclosure is necessary for the administration or enforcement of the Canada Shipping Act, 2001.

27 The following definitions apply in this Part.

dilapidated vessel means a vessel that meets any prescribed criteria and (a) is significantly degraded or dismantled; or (b) is incapable of being used for safe navigation. (bâtiment délabré)

hazard means any condition or threat that may reasonably be expected to result in harmful consequences to the environment, coastlines, shorelines, infrastructure or any other interest, including the health, safety, well-being and economic interests of the public. It does not include harmful consequences that are excluded by the regulations. (danger) wreck means (a) a vessel, or part of a vessel, that is sunk, partially sunk, adrift, stranded or grounded, including on the shore; or (b) equipment, stores, cargo or any other thing that is or was on board a vessel and that is sunk, partially sunk, adrift, stranded or grounded, including on the shore. (épave)

### **Minister of Fisheries and Oceans — general powers**

If the Minister of Fisheries and Oceans has reasonable grounds to believe that a vessel or wreck poses, or may pose, a hazard, he or she (a) may take the measures that he or she considers necessary to prevent, mitigate or eliminate the hazard, including by repairing, securing, moving or removing of the vessel, the wreck or their contents or selling, dismantling, destroying or otherwise disposing of them; (b) may monitor the measures taken by any person to prevent, mitigate or eliminate the hazard; and (c) if he or she considers it necessary to do so, may direct any person or vessel to take measures referred to in paragraph (a) or to refrain from doing so.

Authorized representative or owner unknown or not located

(4) If the authorized representative or, in the absence of an authorized representative, the owner, is unknown or cannot be located, the Minister of Fisheries and Oceans or the Minister, as the case may be, may take any of the measures referred to in paragraphs (3)(a) to (c).

**Authorization to take possession** 38 (1) If any vessel or other thing is wrecked, sunk, partially sunk, stranded, grounded, including on the shore, or abandoned in Canadian waters, the Minister may, for a purpose that he or she specifies and subject to any conditions that he or she considers appropriate, authorize any person to take possession of all or part of the vessel or thing, for the benefit of that person or the public

#### Notification

(2) The Minister must not authorize a person to take possession of all or part of the vessel or thing under subsection (1) unless the person has given 30 days' notice, in the form and manner specified by the Minister, of their intention to do so (a) to its owner; or (b) to the public, if its owner is unknown or cannot be located.

#### Disposition of vessel, wreck or contents

39 The Minister or the Minister of Fisheries and Oceans may sell, dismantle, destroy or otherwise dispose of a vessel, a wreck or their contents under paragraph 30(3)(a), section 35, paragraph 36(a) or 37(3)(a) or subsection 37(4) only if (a) 30 days have elapsed after the day on which notice of his or her intention to dispose of it was given to (i) the public, (ii) the authorized representative of the vessel or, in the absence of an authorized representative, its owner, if known, (iii) the owner of the wreck or the contents, if known, (iv) the holder of any mortgage or hypothec against the vessel that is registered on the register in which the vessel is recorded, (v) the holder of any maritime lien against the vessel or the holder of any similar interest or right, if known, and (vi) the holder of any lien against the contents or the holder of any similar interest or right, if known; (b) the vessel, the wreck or their contents are, in his or her opinion, likely to deteriorate rapidly; or (c) the disposition is made under paragraph 36(a) and the Minister of Fisheries and Oceans is of the opinion that it must be made in a period of less than 30 days to prevent, mitigate or eliminate the hazard.

#### Designation of Enforcement Officers

**Designation by Minister** 71 **The Minister may designate persons or classes of persons as enforcement officers for the purposes of the administration and enforcement of all or part of this Act** — other than subsection 19(1), section 20, subsection 21(1), paragraph 36(c), subsection 37(1), paragraphs 67(2)(e), (k) and (m), subsections 67(3) and (4) and section 70 — and may limit in any manner that he or she considers appropriate the powers that the officers may exercise under this Act

#### Vessel Operation Restriction Regulations

**SOR/2008-120**

[CANADA SHIPPING ACT, 2001](#)

The *Canada Shipping Act* (CSA) 2001 is the principal legislation governing safety of marine transportation and recreational boating, as well as protection of the marine environment. The original CSA was based

on the *British Merchant Shipping Act* of 1894, and was amended in piecemeal fashion over the subsequent decades.

The CSA was recently modernized and reintroduced as the *Canada Shipping Act (CSA) 2001*.

***local authority*** means a government of a municipality, township, parish, county or regional district, any other government constituted under the laws of a province or territory, or a department of a provincial or territorial government or of the federal government. (*administration locale*)