

Form 7.05

2025

Hfx. No.

Supreme Court of Nova Scotia

Between:

JEFFREY EVELY

Applicant

and

NOVA SCOTIA MINISTER OF NATURAL RESOURCES, and THE ATTORNEY
GENERAL OF NOVA SCOTIA REPRESENTING HIS MAJESTY THE KING IN THE
RIGHT OF THE PROVINCE OF NOVA SCOTIA

Respondents

Notice for Judicial Review

To: The Honourable Tory Rushton
Department of Natural Resources and Renewables

And to: The Attorney General of Nova Scotia
Nova Scotia Department of Justice

Request for judicial review

The applicant requests judicial review of a decision by a decision-making authority, the Minister of Natural Resources.

Decision to be reviewed

The decision is dated August 5, 2025. The authority under which the decision is made is section 25(1) of the *Forests Act*, R.S.N.S. 1989, c. 179 (the “***Forests Act***”). The decision was first communicated to the applicant on August 5, 2025. Attached to this notice is a copy of the “Fire Proclamation - Travel Ban” (the “**Travel Ban**”).

Grounds for review

The applicant seeks review on the following grounds:

1. The Applicant, Jeffrey Evelyn, is a resident of Sydney, Nova Scotia. He is a veteran of the Canadian Armed Forces, who served multiple tours of duty in war zones.
2. Mr. Evelyn goes for daily hikes in the woods in Nova Scotia, as part of his regimen to maintain his physical and mental well-being, including his need to manage his Post-Traumatic Stress Disorder (“PTSD”), a condition he incurred as a result of his service to his country.

The enabling legislation

3. Section 25(1) of the *Forests Act* provides the respondent Minister of Natural Resources (the “Minister”) with the following authority:

Restricted travel zone

25 (1) Whenever deemed necessary for the protection of the woods, the Minister may at any time by proclamation set aside for any period of time a restricted travel zone in any area of woods upon which no person shall enter for the purpose of travelling, camping, fishing or picnicking, or any other purpose, without a travel permit.

4. Section 3(v) of the *Forests Act* defines “woods” as “forest land and rock barren, brush land, dry marsh, bog or muskeg”, without making a distinction between public and private lands.
5. Pursuant to section 25(3) of the *Forests Act*, a proclamation by the Minister does not apply to, *inter alia*, the owner or occupier of the woods.
6. Section 36 of the *Forests Act* provides that every person who fails to comply with an order made under the *Act* is guilty of an offence and liable to a fine of up to \$500,000, imprisonment for a term of not more than six months, or both.

The Travel Ban

7. On August 5, 2025, the Minister issued the Travel Ban, which provides, in part:

AND WHEREAS the Minister of Natural Resources now deems it necessary for the protection of the woods to make such a Proclamation;

NOW KNOW that the Minister of Natural Resources, pursuant to Section 25(1) of the *Forests Act*, does hereby prohibit entry into the woods for the purposes of travelling, camping, fishing or picnicking, or any other purpose, without a valid travel permit in all counties in Nova Scotia.

THIS PROCLAMATION shall be effective at 4:00pm on August 5, 2025, and ending at 2:00pm on October 15, 2025, unless and until this Proclamation is revoked or amended by further notice.

ANY PERSON who contravenes this Proclamation may be liable to prosecution by virtue of the provisions of the *Forests Act*.

The reasons for the Travel Ban

8. The Travel Ban itself provides no reasons or explanation whatsoever as to why a blanket prohibition on access to all Nova Scotia woods is necessary to protect the woods.
9. The Premier of Nova Scotia, in announcing the Travel Ban on August 5, 2025, stated that it was an attempt to be proactive and try to prevent fires. The Premier stated that the Travel Ban was restricting travel and activities that weren't necessary for most people. While noting that fishing and hiking through the woods was not permitted and trail systems through woods are off limits, the Premier also claimed that it would be "fine" if people walked on a short trail to get from point A to point B, including to get to a lake to fish. The Premier claimed that staying out of the woods was necessary for the safety of one's family, friends and neighbours, and also necessary to keep firefighters safe.
10. At the August 5, 2025 news conference, the Minister stated that vigilance needed to be stepped up, and that was why the restrictions on travel in the woods were being imposed. The aim of the restrictions was to limit unnecessary travel in the woods, according to the Minister, and now was not the time to hike in the woods.
11. At the August 5, 2025 news conference, the Minister noted that the restrictions would not interfere with people's livelihoods, and that people who work in the woods can get a permit to carry out their operations on Crown lands, potentially being required to work at night. Permits for work operations would be addressed on a case-by-case basis. For recreation purposes, however, the Minister was clear that people needed to stay out of the woods, stating that "there's times that you can go into the woods and there's times that you can't: this is one of them."
12. The Minister did not acknowledge that the Travel Ban limits Nova Scotians' section 7 rights guaranteed by the *Canadian Charter of Rights and Freedoms*.
13. On August 13, 2025, the Premier attempted to justify not allowing people to hike or walk their dog in the woods by raising the possibility of a person being stuck in the woods while there is a fire burning around them. The Premier stated that finding and saving those people could take resources that could otherwise be fighting fires. The Premier also stated that someone out for a hike in the woods could do something accidentally that could start a fire.

14. The Premier also claimed on August 13, 2025, that the current conditions meant that fire-fighters only had approximately five minutes to get to a fire in the woods and have it controlled. The Manager of Forest Protection for the Department of Natural Resources (the “DNR”), Scott Tingley further explained at the news conference that the previous day, they had been alerted to a wildfire near Susie Lake Crescent by a 911 call, that fire crews were immediately dispatched, and that fixed wing aircraft from out-of-province helped in battling the fire, but had to return back to New Brunswick, so that the pilots could rest. The Premier was asked why Nova Scotia declined to buy fixed-wing water bombers after it had considered doing so following the 2023 wildfires: the Premier indicated that the Province is “constantly looking” at buying fixed water bombers.

The legal challenge to the 2023 Fire Proclamation

15. On August 5, 2025, the Minister stated that the Travel Ban was “copycatting” what the Province did in 2023.
16. In 2023, Mr. Evelyn filed a Notice for Judicial Review challenging the Minister’s previous fire proclamation dated May 30, 2023. In reasons indexed at *Evelyn v. Nova Scotia (Department of Natural Resources)*, 2024 NSSC 16, Justice Campbell granted the respondents’ motion which argued that Mr. Evelyn did not have standing to review the May 30, 2023 Fire Proclamation, in part, because he had not received a fine under the 2023 Fire Proclamation. The 2023 Fire Proclamation was not reviewed on its merits.

Mr. Evelyn’s standing to challenge the Travel Ban

17. On August 6, 2025, Mr. Evelyn encountered caution tape blocking gravel trails through the woods in public parks where he regularly walks. Mr. Evelyn observed the arbitrary nature of which areas were deemed permissible for walking, and which areas were not deemed permissible. He further noted that the cordoned off area in 2023 was different than the cordoned off area in 2025, despite the restrictions being identical.
18. Because of Justice Campbell’s 2024 decision, on August 8, 2025, Mr. Evelyn attended his local DNR office in Coxheath, where a number of DNR officers were on duty. Mr. Evelyn civilly made arrangements with the officers so that they could observe him walking in woods behind the DNR office. After spending approximately 90 seconds in the woods, Mr. Evelyn returned to the DNR officers, and arranged to meet them back in their office. While, a DNR officer had threatened to double his fine, Mr. Evelyn received a ticket with a total fine amount of \$28,872.50.
19. Further, the more recent explanation for the “Fire Proclamation- Travel Ban” was that it is unsafe to walk in the woods because a person might be surrounded by a fire. Prohibiting hiking and fishing for that reason has no connection to “protection of the woods” and therefore, the Minister lacked the legal authority to impose those restrictions.

The Travel Ban is *ultra vires*

20. The Minister lacked the legal authority to impose those restrictions. In order for the Minister to impose restrictions under section 25(1) of the *Forests Act*, the Minister must reasonably deem such restrictions “necessary for the protection of the woods”.
21. The Travel Ban was made for the purpose of protecting the woods from fire. Yet, in it, the Minister, prohibits activities that create no fire risk. Prohibiting activities that create no fire risk cannot reasonably be deemed “necessary for the protection of the woods”. In fact, activities such as hiking through the woods could allow members of the public to notify officials about fires or fire risks, and actually prevent wildfires.
22. The August 13, 2025 explanation for the Travel Ban was that it is unsafe to walk in the woods because a person might be surrounded by a fire. Prohibiting hiking and fishing for that reason has no connection to “protection of the woods” and therefore, the Minister lacked the legal authority to impose those restrictions.

The Travel Ban is unreasonable

23. The Travel Ban does not bear the hallmarks of reasonableness – transparency, intelligibility and justification – and fails to be justified in relation to the relevant factual and legal constraints. The Travel Ban is not based on internally coherent reasoning. Further, the Travel Ban is unreasonable in the following ways:
 - a. the Travel Ban prohibits people from entering the woods for purposes that have no connection to protecting the woods, including particularly protecting the woods from fire;
 - b. the Travel Ban imposes uniform restrictions across the Province, rather than accounting for and rationally addressing the different fire risk areas in Nova Scotia, and limiting the most extreme restrictions to particular areas where they could be deemed necessary for the protection of the woods;
 - c. the Travel Ban prohibits people from entering the woods in all counties in the Province, including counties that have less wildfire risk than other counties in the Province;
 - d. preventing people from entering the woods for their own safety or to so emergency responders do not potentially need to assist persons in the woods is not rationally connected to the purpose of protecting the woods.
 - e. the Travel Ban prevents people from being in the woods and identifying and reporting
 - i) a fire, so that the fire can be suppressed before it gets larger and more difficult to control, and inflicts far more damage than what it would have inflicted had it been reported;

- ii) persons failing to comply with laws and orders that prohibit activities that actually create a fire risk (such as smoking and campfires);
- despite the fact that Nova Scotia asks and relies on citizens to report a wildfire or violations of the fire restrictions, as part of its fire detection system within the Province; and
- f. the Travel Ban fails to account for the public trust in which the respondents hold public lands for the benefit of Nova Scotians; and,
 - g. it is unreasonable to ban more than a million Nova Scotians and other visitors from the woods for any purpose, while only allowing them to access the woods upon the DNR receiving, considering and determining—on a case-by-case basis—requests for a permit.

The Travel Ban unreasonably limits Nova Scotians’ *Charter* section 7 rights

24. The Travel Ban limits the *Charter* section 7 right to liberty in the following ways:

- a. liberty protects against physical restraint, while the Travel Ban prevents Nova Scotians from accessing approximately 75% of their Province that may be classified as woods for any purpose except for those who are able to successfully apply for and receive a permit on a case-by-case basis;
- b. liberty also protects a sphere of personal autonomy and inherently private choices that go to the core of what it means to enjoy individual dignity and independence, while the Travel Ban restricts Mr. Evelyn from maintaining the necessary therapeutic treatment for his PTSD of hiking through the woods; and,
- c. failing to comply with the Travel Ban carries with it the threat of up to six months’ imprisonment, per offense, pursuant to section 36 of the *Forests Act*.

25. The Travel Ban limits the *Charter* section 7 right to security of the person. Delays in obtaining medical treatment which affect patients physically and psychologically trigger the section 7 protection for security of the person. The Travel Ban has created an additional risk to Mr. Evelyn’s mental and physiological health, as he hikes daily in the woods as part of his treatment for his PTSD. The Travel Ban’s restriction of this daily treatment has exacerbated his PTSD symptoms

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26. The Travel Ban’s limits on Nova Scotians’ liberty rights are not in accordance with the principles of fundamental justice, including in the following ways:

- a. the Travel Ban is arbitrary, overbroad and grossly disproportionate in that it prohibits entry into three quarters of the area of Nova Scotia for any purpose, including activities in the woods that create no fire risk;

- b. the reasons provided for the Travel Ban show its arbitrariness, in that exemptions will be provided for forestry and other work operations in the woods—which create fire risks, while no exemptions will be provide for the public to even walk in the woods which creates no fire risk;
 - c. the Travel Ban under the shifting purpose of protecting people in the woods from fire (announced on August 13, 2025), is also arbitrary and overbroad in that in most areas of Nova Scotia, people would have to hike for days in order to get to a wildfire, and many other permitted activities in Nova Scotia have a significantly greater risk of utilizing first responder resources than people walking or hiking in the woods;
 - d. the Travel Ban is arbitrary and overbroad in that it treats all Nova Scotians as potential arsonists, punishing the public for the actions of a miniscule number of arsonists;
 - e. the Travel Ban is grossly disproportionate and overbroad in that the minimum fine of \$25,000, or greater potential liability and even incarceration under the *Forests Act*, for merely walking one’s dog, hiking or fishing in the woods is totally out of sync with the objective of preventing forest fires;
 - f. the respondents expressly allow work operations to continue in the woods, while using the Travel Ban to prohibit recreational activities in the woods.
 - g. the Travel Ban is vague in that the definition of the “woods” where entry is prohibited includes land that would not commonly be understood as “woods” and which cannot easily be distinguished from areas that are not woods; and,
 - h. the Travel Ban is further vague in that what the respondents actually deem as prohibited entry into the woods is unclear, since, for example, while fishing in the woods is not permitted, walking through the woods on a short trail to fish in a lake is according to the respondents permitted.
27. In any event, the restriction of Nova Scotians’ section 7 liberty rights cannot be demonstrably justified under section 1 of the *Charter*.
28. Further, or in the alternative, the respondent Minister failed to acknowledge that the Travel Ban limits Nova Scotians’ *Charter* right to liberty, which is fatal to the constitutional reasonableness of the Travel Ban. Likewise, the Minister failed to even attempt to proportionately balance the Travel Ban’s limits on Nova Scotians’ *Charter* right to liberty with the relevant statutory objectives.

Law and Policy:

29. The Applicant also relies on the following:

- a. Nova Scotia Civil Procedure Rules, Royal Gaz Nov, 19, 2008, as amended;
- b. *Forests Act*, R.S.N.S. 1989, c. 179;
- c. *Canadian Charter of Rights and Freedoms*, Part 1 of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11; and,
- d. such further grounds as counsel may advise.

Documentary evidence to be used at the hearing of this application:

30. The Application intends to use such further evidence that counsel may advise and that the Court may permit.

Orders proposed

The Applicant requests:

1. an order quashing the Travel Ban;
2. a declaration that the Travel Ban is ultra vires and unreasonable;
3. a declaration that the Travel Ban limits Nova Scotians' *Charter* section 7 rights in a manner not in accordance with the principles of fundamental justice, and that the limitations are not reasonable or justified under section 1;
4. an order that given the public interest nature of this matter, no costs will be assessed for or against the Applicant;
5. such further and other relief as counsel may advise and this Honourable Court may deem appropriate and just.

You may participate

You may participate in the judicial review if you file a notice of participation no more than ten days after the day a copy of this notice for judicial review is delivered to you. Filing the notice entitles you to notice of further steps in the judicial review.

Record to be produced

The Applicant anticipates the record will be:

- The Travel Ban, and written statements or notes used by government officials to announce the decision;
- All records, including fire risk data, at the Department of Natural Resources and the Office of the Premier related to the decision to issue the Travel Ban, and the decision(s) to continue maintain the Travel Ban; and
- All communications between the Department of Natural Resources or the Office of the Premier; and a) any experts, consultants or stakeholders; or b) counties, municipalities or fire departments in Nova Scotia; concerning the Travel Ban.

Notice to decision-making authority

The respondents, the Minister of Nature Resources, and the Attorney General of Nova Scotia Representing His Majesty the King in the Right of the Province of Nova Scotia,

are required by Civil Procedure Rule 7 (Judicial Review and Appeal) to file one of the following no more than five days after the day the decision-making authority is notified of this proceeding by delivery of a copy of this notice for judicial review:

- a complete copy of the record, with copies of separate documents separated by numbered or lettered tabs;
- a statement indicating that the decision-making authority has made arrangements with the applicant to produce of the record, providing details of those arrangements, and estimating when the return will be ready;
- an undertaking that the decision-making authority will appear on the motion for directions and will seek directions concerning the record;
- a summary of reasons given orally without a record and your certificate the summary is accurate, if you gave reasons orally and not on record.

If you fail in this regard, a judge may order costs against you including a requirement that you indemnify each other party for any expenses caused by your failure, such as expenses caused by an adjournment if that is the result.

Stay of proceedings or other interim remedy

The applicant *will not* make a motion for a stay of the enforcement of the decision under judicial review.

Filing and delivering documents

Any documents you file with the court must be filed at the office of the prothonotary at The Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia (telephone #424-6900).

When you file a document you must immediately deliver a copy of it to each other party entitled to notice, unless the document is part of an *ex parte* motion, the parties agree delivery is not required, or a judge orders it is not required.

Contact information

The applicant designates the following address:

Marty Moore, JD
Barrister and Solicitor
Moore Justice Law

Documents delivered to this address are considered received by the applicant on delivery.

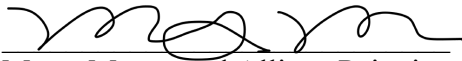
Further contact information is available from the prothonotary.

Motion for date and directions

At 11 a.m. on December 9, 2025, the applicant will appear before a judge in Chambers at the Law Courts, 1815 Upper Water Street, Halifax, Nova Scotia to make a motion for an order giving directions for the judicial review including a date and time for the hearing of it. The judge may make an order or provide directions in your absence if you or your counsel fail to attend, and the court may determine the judicial review without further notice to you.

Signature

Signed August 20, 2025



Marty Moore and Allison Pejovic
as counsel for Jeffrey Evely

Prothonotary's certificate

I certify that this notice for judicial review was filed with the court on _____, 2025.

Prothonotary

FIRE PROCLAMATION- TRAVEL BAN

WHEREAS Section 25(1) of the *Forests Act*, R.S.N.S. 1989, c. 179, authorizes the Minister of the Department of Natural Resources, whenever the Minister deems it necessary for the protection of the woods, to designate by proclamation a restricted travel zone in any area of the woods upon which no person shall enter for the purpose of travelling, camping, fishing or picnicking, or any other purpose, without a valid travel permit issued by the Minister, a conservation officer or other person authorized by the Minister during the period specified in the Proclamation.

AND WHEREAS the Minister of Natural Resources now deems it necessary for the protection of the woods to make such a Proclamation;

NOW KNOW that the Minister of Natural Resources, pursuant to Section 25(1) of the *Forests Act*, does hereby prohibit entry into the woods for the purposes of travelling, camping, fishing or picnicking, or any other purpose, without a valid travel permit in all counties in Nova Scotia.

THIS PROCLAMATION shall be effective at 4:00pm on August 5, 2025, and ending at 2:00pm on October 15, 2025, unless and until this Proclamation is revoked or amended by further notice.

ANY PERSON who contravenes this Proclamation may be liable to prosecution by virtue of the provisions of the *Forests Act*.

DATED at Halifax, in the County of Halifax on August 5, 2025.

**HIS MAJESTY THE KING IN RIGHT
OF THE PROVINCE OF NOVA SCOTIA**

Original signed by

**HONOURABLE TORY RUSHTON
MINISTER OF THE DEPARTMENT OF
NATURAL RESOURCES**