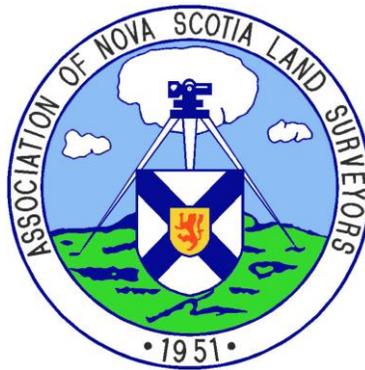


# THE ASSOCIATION OF NOVA SCOTIA LAND SURVEYORS



## Excerpts from Nova Scotia Statutes For Board of Examiners Jurisdictional Exam

*Edited April 2020*

## **CAUTION**

The information contained in this document is intended to be a reference for the members of the Association of Nova Scotia Land Surveyors. The ACTS listed are not necessarily complete and only contain excerpts that are deemed relevant to the industry. The information contained herein is subject to constant change without notice and may not be completely up-to-date. Any person using this document does so at their own risk and is encouraged to confirm the validity of the information they are seeking.

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**Age of Majority Act**  
CHAPTER 4  
OF THE  
REVISED STATUTES, 1989

**Age of majority**

2 (1) Every person attains the age of majority, and ceases to be a minor, on attaining the age of nineteen years.

**Effect**

(2) Every person who on the thirteenth day of April, 1971, had attained the age of nineteen years, had attained the age of majority and ceased to be a minor.

**Apology Act**  
CHAPTER 34 OF THE ACTS OF 2008

1 This Act may be cited as the Apology Act.

2 In this Act,

(a) "apology" means an expression of sympathy or regret, a statement that one is sorry or any other words or actions indicating contrition or commiseration, whether or not the words or actions admit or imply an admission of fault in connection with the matter to which the words or actions relate;

(b) "court" includes a tribunal, an arbitrator and any other person who is acting in a judicial or quasi-judicial capacity.

3 (1) An apology made by or on behalf of a person in connection with any matter

(a) does not constitute an express or implied admission of fault or liability by the person in connection with that matter;

(b) does not constitute a confirmation of a cause of action or acknowledgment of a claim in relation to that matter for the purpose of the Limitations of Actions Act;

(c) notwithstanding any wording to the contrary in any contract of insurance or any other enactment or law, does not void, impair or otherwise affect any insurance coverage that is or, but for the apology, would be available to the person in connection with that matter; and

(d) may not be taken into account in any determination of fault or liability in connection with that matter.

(2) Notwithstanding any other enactment or law, evidence of an apology made by or on behalf of a person in connection with any matter is not admissible in any court as evidence of the fault or liability of the person in connection with that matter.

## **Agricultural Marshland Conservation Act**

### CHAPTER 22 OF THE ACTS OF 2000

**2** In this Act,

- (a) "Commission" means the Agricultural Marshlands Conservation Commission;
- (b) "development" includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure or a change or alteration in the use made of lands or structures;
- (c) "marsh body" means a marsh body incorporated pursuant to this Act or continued by this Act;
- (d) "marshland" means land that is
  - (i) subject to periodic tidal flooding, and
  - (ii) designated by the Minister as marshland pursuant to this Act or Chapter 274 of the Revised Statutes, 1989, the *Marshland Reclamation Act*;
- (e) "Marshland Administrator" means the Marshland Administrator appointed pursuant to this Act and includes a person acting under the supervision and direction of the Marshland Administrator;
- (f) "marshland section" means an area of marshland that may be effectively dealt with as a unit in the construction and maintenance of works;
- (g) "Minister" means the Minister of Agriculture and Fisheries;
- (h) "rates" means rates levied pursuant this Act, including interest on rates;
- (i) "works" includes dykes, aboiteaux, breakwaters, canals, ditches, drains, roads and other structures, excavations and facilities for the conservation, development, improvement or protection of marshland to a standard appropriate for agricultural purposes.

### **Construction of Works**

- 4** (1) Subject to the approval of the Governor in Council, the Minister may construct works to develop marshland for agricultural purposes.
- (2) The Minister may reconstruct, repair, operate and maintain any works for the protection, drainage and improvement of marshland for agricultural purposes.
- (3) The costs and expenses incurred as a result of the activities carried out pursuant to subsections (1) and (2) shall be paid from moneys appropriated annually by the Legislature.
- (4) For the purpose of carrying out the activities authorized by this Section, the Minister may

- (a) enter into agreements with the Government of Canada, the government of any other province of Canada, any department, body or person;
- (b) purchase, dispose of or rent real and personal property;
- (c) engage all necessary employees, consultants, contractors or other persons;
- (d) take or authorize any person to take any action that may be necessary for carrying out the purpose of this Act.

**5** (1) The Minister may, by order, designate and fix the boundaries of any marshland section for the purpose of carrying out any works or projects pursuant to this Act.

(2) A marshland section designated pursuant to subsection (1) may include any lands adjacent to the marshland that the Minister considers necessary for the construction and maintenance of any works.

(3) Where the designation of a marshland section has been made pursuant to this Section, the Minister shall

- (a) publish a notice containing a description of the marshland section in the Royal Gazette;
- (b) deposit a description of the marshland section in the office of the registrar of deeds for the registration district in which the marshland section is situate; and
- (c) give notice of the designation and a description of the marshland section to the owner of the marshland section.

**6** Any area designated by the Minister as a marshland section pursuant to Section 5 is marshland for the purpose of this Act.

## **MARSH BODIES**

**11** (1) The owners of marshland in any marshland section may petition the Commission requesting that they be incorporated as a marsh body for that marshland section.

(2) The petition shall set forth

- (a) the boundaries and size of the marshland section;
- (b) the names and addresses of all persons believed to be, after due inquiry, the owners of marshland within the marshland section;
- (c) the approximate amount of marshland owned by each owner within the marshland section;
- (d) the proposed name of the marsh body; and
- (e) the names of not more than nine persons to be the provisional executive committee of the marsh body.

**13** (1) The Minister may vary the boundaries of a marshland section for which a marsh body is incorporated by adding marshland to the section or excluding marshland from the section where

- (a) the Commission recommends that the Minister make the variation; and
- (b) the Minister is satisfied that
  - (i) a resolution requesting the variation has been passed at a general or special meeting of the members of the marsh body by a vote of not fewer than two thirds of the members of the marsh body present at the meeting, and
  - (ii) the owners of not less than two thirds of the marshland proposed to be added

or excluded favour the variation.

(2) Where the Minister varies the boundaries of a marshland section for which a marsh body was incorporated,

- (a) each owner of marshland added to the marshland section is a member of the marsh body;
- (b) any marshland added to the marshland section is subject to this Act;
- (c) each owner of marshland excluded from the marshland section ceases to be a member of the marsh body if, as a result of the variation, the owner ceases to own any land in the marshland section; and
- (d) any marshland excluded from the marshland section ceases to be subject to this Act.

(3) Where a variation is made pursuant to this Section, the Minister shall insert a notice containing a description of the area in of the Royal Gazette.

**14** A marsh body may

- (a) acquire, use, sell and lease real and personal property;
- (b) construct, reconstruct, recondition, repair, maintain, conduct and operate works;
- (c) enter into agreements with the Minister or other persons for the construction, reconstruction, reconditioning, repairing, maintenance, conduct or operation of works;
- (d) make by-laws not inconsistent with this Act for the regulation of its business and affairs;
- (e) subject to the approval of the Commission, make rules respecting works and land within or affecting the marshland section;
- (f) raise money for its purposes by borrowing or by the levying of rates pursuant to this Act;
- (g) prepare a mission or an objectives statement;
- (h) do and perform all other acts and things incidental or conducive to the attainment of its objects.

## ENTRY AND DEVELOPMENT

**39** Where the executive committee of a marsh body considers it is necessary for any purpose relating to the construction, maintenance or repair of works it may, without the consent of the owner, enter on any lands within the marshland section for which the marsh body was incorporated and do any work the executive committee considers necessary for its purposes.

**40** A marsh body may expropriate an easement in, over or relating to land for any purpose relating to the construction, maintenance or repair of works.

**41** (1) Notwithstanding the *Municipal Government Act* or any other provision of this Act, no development shall, on and after November 7, 2000, be carried out in a marshland section unless

- (a) a permit for variance authorizing the development is granted by the Marshland Administrator; or
- (b) the development
  - (i) conforms with generally accepted farming practices that do not require structures to be built,
  - (ii) is necessary for the protection of the marshland section,
  - (iii) was lawfully commenced before November 7, 2000,
  - (iv) was not commenced before November 7, 2000, but could have been lawfully

commenced before November 7, 2000, or

(v) has been exempted from the application of this Section pursuant to subsection (2).

(2) The Governor in Council may exempt a development from the application of this Section where

- (a) the development consists of the construction of roads, the installation of utility poles or the installation or construction of structures to be used for the generation of power; and
- (b) the Governor in Council considers that it is in the public interest to grant the exemption.

(3) Within ten working days after receiving an application for a permit for variance, the Marshland Administrator shall

- (a) determine if the application is complete; and
- (b) where the application is incomplete, notify the applicant in writing advising what is required to complete the application.

(4) Within fifteen working days after receiving a completed application for a permit for variance, the Marshland Administrator shall either grant the permit or inform the applicant of the reasons for not granting the permit.

(5) The applicant may appeal the refusal of a permit for variance to the Commission who, within sixty working days of receiving the appeal, shall

- (a) confirm the decision of the Marshland Administrator; or
- (b) allow the appeal and order that the permit for variance be granted.

(6) Subsection (1) does not apply to non-agricultural uses existing on the coming into force of this Act on lands specified in the regulations.

**53** Each agreement made pursuant to the *Marsh Act* or the *Marshland Reclamation Act* and in effect immediately before the coming into force of this Act is hereby continued.

**55** (1) Chapter 273 of the Revised Statutes, 1989, the *Marsh Act*, is repealed.

(2) Chapter 274 of the Revised Statutes, 1989, the *Marshland Reclamation Act* is repealed.

## **Agriculture and Marketing Act**

### CHAPTER 6

#### OF THE

#### REVISED STATUTES, 1989

**amended** 1992, c. 5, s. 23; 1998, c. 18, s. 545

### **PART XX**

### **FUR FARMING**

#### **Interpretation**

**189** In this Part,

- (a) "fur farm" means an enclosure in which fur-bearing animals are kept in captivity and which is so constructed that it will effectively prevent ingress or egress of animals of the same species as those so kept in captivity;

#### **Prohibited entry**

**192** When notices prohibiting trespassing that are easily discernible at a distance of not less than twenty-five yards are posted upon the outer fence or enclosure surrounding the dens or pens of

fur-bearing animals that are kept on a fur farm or are kept in captivity for breeding purposes, no person, except with the consent of the owner or caretaker of the farm or place where the animals are kept, shall

- (a) enter upon the land of the owner of the farm or place within a distance of twenty-five yards of the fence or enclosure;
- (b) upon the land of the owner of the farm or place, approach within twenty-five yards of the fence or enclosure; or
- (c) for the purpose of entering the enclosed area or for any other purpose, pass within the fence or enclosure or climb over, break or cut through it. R.S., c. 6, s. 192.

**Angling Act**  
CHAPTER 14  
OF THE  
REVISED STATUTES, 1989  
amended 1998, c. 18, s. 546

**Interpretation**

**2** In this Act,

- (a) "lawfully fishing" means fishing in accordance with the game laws of the Province and the laws of the Dominion of Canada and any regulations made thereunder for the purpose of sport, and includes the taking and carrying away of any fish lawfully caught;
- (b) "occupant" means a person having the right, exclusive of the public, to fish in any river, stream or lake either as the owner of the lands abutting thereon or otherwise;
- (c) "owner" means a person having the rightful possession of and control over lands, either as holder of the legal title, as tenant or otherwise, and includes joint owners and tenants in common;
- (d) "timberland" means uncultivated land used or held only or primarily for lumber purposes;
- (e) "uncultivated land" means land that is in its natural wild state, and includes also land that has been wholly or partially cleared, but is otherwise in its natural state. R.S., c. 14, s. 2.

**Right to go upon land**

**3** (1) Any resident of the Province shall have the right to go on foot along the banks of any river, stream or lake, upon and across any uncultivated lands and Crown lands for the purpose of lawfully fishing with rod and line in such rivers, streams or lakes.

**Right to go upon water**

(2) Any resident of the Province shall have the right to go on, upon or across any river, stream or lake in boat or canoe or otherwise, for the purpose of lawfully fishing with rod and line in such rivers, streams or lakes.

## **Assessment Act**

### CHAPTER 23

#### OF THE

#### REVISED STATUTES, 1989

**amended:** 1990, c. 19, ss. 7-34; 1990, c. 24; 1992, c. 11, s. 35; 1996, c. 5; 1998, c. 4; 1998, c. 13, s. 2; 1998, c. 18, s. 547

### **Right to enter and inspect**

**19** Every assessor has the right at all reasonable times to enter upon any lands or premises and to inspect the same, or any property thereon, for the purpose of making an assessment. R.S., c. 23, s. 19.

## **Beaches Act**

### CHAPTER 32

#### OF THE

#### REVISED STATUTES, 1989

**amended** 1993, c. 9, s. 9

### **Dedication of beaches**

**2** (1) The beaches of Nova Scotia are dedicated in perpetuity for the benefit, education and enjoyment of present and future generations of Nova Scotians.

### **Purpose of Act**

(2) The purpose of this Act is to

- (a) provide for the protection of beaches and associated dune systems as significant and sensitive environmental and recreational resources;
- (b) provide for the regulation and enforcement of the full range of land-use activities on beaches, including aggregate removal, so as to leave them unimpaired for the benefit and enjoyment of future generations;
- (c) control recreational and other uses of beaches that may cause undesirable impacts on beach and associated dune systems. R.S., c. 32, s. 2.

### **Interpretation**

**3** In this Act,

- (a) "beach" means that area of land on the coastline lying to the seaward of the mean high watermark and that area of land to landward immediately adjacent thereto to the distance determined by the Governor in Council, and includes any lakeshore area declared by the Governor in Council to be a beach;
- (b) "Minister" means the Minister of Lands and Forests;
- (c) "peace officer" includes a member of the Royal Canadian Mounted Police, a police officer appointed by a city, incorporated town or municipality of a county or district and a conservation officer as defined in the *Crown Lands Act*, *Forests Act* and *Wildlife Act*;
- (d) "vehicle" means a vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered pursuant to the *Motor Vehicle Act*, and includes an airplane;
- (e) "vessel" means a means of conveyance of a kind used on water and includes an accessory to the vessel. R.S., c. 32, s. 3.

**Agreements**

4(4) The Minister may, for the effective management of beaches, enter into agreements with the Government of Canada or an agency thereof, with a provincial or municipal government or an agency thereof or with a person for the purposes of this Act or the regulations.

**Agreements to manage or preserve land**

(5) Without restricting the generality of subsection (4), the Minister may enter into an agreement with the owner or occupier of land adjacent to a beach to manage or preserve that land so that it complements the beach.

**Determination of beach area**

5 (1) The Governor in Council, on the recommendation of the Minister, may determine what area of land to the landward of mean high watermark and immediately adjacent thereto and what lakeshore area is a beach within the meaning of this Act.

**Notice of beach area**

(2) When the Governor in Council determines pursuant to subsection (1) that an area of land to the landward of mean high watermark is a beach, the Minister shall

- (a) publish a notice containing a description of the beach in the Royal Gazette and in a newspaper circulated in the county or counties to which the beach is contiguous;
- (b) deposit a description and plan of the beach in the office of the registrar of deeds for the registration district in which the beach is situate, signed either by him or the Deputy Minister of Lands and Forests or by a Nova Scotia Land Surveyor;
- (c) give notice to the owner of the beach if the owner is known, by serving upon him or by mailing by registered post addressed to him at his last known place of abode, a notice containing a description of the beach and notifying him that the beach is a beach under this Act; and
- (d) post signs about the beach indicating that it is a beach and that no sand, gravel, stone or other material may be removed from it without the consent of the Minister.

**Evidence of sign as prima facie proof**

(3) Evidence that a sign has been posted is *prima facie* proof that the sign has been posted pursuant to clause (d) of subsection (2).

**Certified description as prima facie proof**

(4) A description and plan of a beach, appearing to be certified by the Minister or the Registrar of Crown Lands appointed pursuant to the *Crown Lands Act*, shall be received as evidence without proof of the signature of the Minister or Registrar of Crown Lands and the designation of any lands on the plan as a beach is *prima facie* proof that the lands so designated are a beach. R.S., c. 32, s. 5.

**Prohibited removal of sand**

6 (1) No person shall wilfully take or remove any sand, gravel, stone or other material from a beach without the permission of the Minister.

**Ballast for lobster pot**

(2) Nothing in this Section shall prevent or restrict a fisherman from removing from a beach rocks for ballast for his lobster pots. R.S., c. 32, s. 6.

**Permission for removal of sand**

11 The Minister, upon such terms and conditions as the Governor in Council from time to time prescribes, may grant permission for the removal of sand, gravel, stone or other material from a beach. R.S., c. 32, s. 11.

## **Beaches and Foreshores Act**

### CHAPTER 33 OF THE REVISED STATUTES, 1989

**2** (1) The Governor in Council may, upon application therefor in writing to the Minister of Lands and Forests,

(a) give a grant from the Crown to any person of any ungranted flat, beach or foreshore upon the coast of the Province; or

(b) enter into a lease with any person of any such flat, beach or foreshore.

#### **Effect of grant**

(2) Every such grant when issued shall vest absolutely the fee simple of the land conveyed thereby in the person receiving the same, subject to any control vested in the Parliament of Canada in respect to the navigation of any lands covered with water embraced in such grant.

#### **Grant of water front**

**4** No grant of a waterfront shall be issued to any other person than the owner of the land on which the waterfront abuts, without the consent in writing of the owner. R.S., c. 33, s. 4.

## **Blueberry Associations Act**

### CHAPTER 42 OF THE REVISED STATUTES, 1989 amended 1992, c. 14, s. 61

#### **Incorporation**

**2**(1) When not less than ten persons of the age of eighteen years and upwards resident in any place or settlement in the Province and actually engaged in the occupation of berry picking signify their intention of forming an association by signing a declaration in the form in the Schedule, a certificate of incorporation may be issued by the Registrar of Joint Stock Companies to such persons, and they and such other persons as may become members of such association shall thereupon become a body corporate under the name of "Station No. . . . . Blueberry Association of Nova Scotia".

#### **Filing of declaration and affidavit**

(2) The declaration, with an affidavit verifying the signatures thereto and the fact that the persons signing the same are actually engaged in the occupation of berry picking, shall, before such certificate is issued, be filed with the Registrar. R.S., c. 42, s. 2.

#### **Blueberry commons**

**3**(1) The Minister of Natural Resources may, in his discretion, upon the application of a blueberry association formed under this Act, set aside an area or areas of Crown lands as blueberry commons.

#### **Survey**

(2) Such area or areas shall first be surveyed and properly marked by posts and stones by the Department of Natural Resources. R.S., c. 42, s. 3; 1992, c. 14, s. 61.

## **Objects**

**4** The objects of an association shall be

- (a) the obtaining of an area of Crown land for the cultivation, picking and co-operative shipping and selling of blueberries therefrom;
- (b) the procuring of reliable information as to the latest improvements in the methods of cultivating, picking, shipping and selling of blueberries, and the acquiring and collecting knowledge regarding markets for the sale of blueberries; and
- (c) the doing of all matters and things that may legally tend to or assist in the attainment of the objects of the association. R.S., c. 42, s. 4.

## **Rules and regulations**

**9(1)** Each association shall have power to make rules and regulations regarding the conduct of its meetings, the annual fees to be paid by members and such other matters pertaining to its conduct and objects as are not inconsistent with this Act and as may be approved by the Minister of Natural Resources.

## **Copy to be forwarded**

**(2)** A copy of the rules and regulations when approved shall be forwarded to the Chief Forester appointed under the Forests Act, and shall be of force and effect until disapproved by the Governor in Council. R.S., c. 42, s. 9; 1992, c. 14, s. 61.

# **Canadian Free trade Agreement Impementation Act**

2<sup>nd</sup> Session, 63<sup>rd</sup> General Assembly  
67 Elizabeth, 2018

**1** This Act may be cited as the Canadian Free Trade Agreement Implementation Act.

**2** The purpose of this Act is to implement the Canadian Free Trade Agreement between the Government of Canada and the governments of all the provinces of Canada and thereby reduce and eliminate barriers to the free movement of persons, goods, services and investments within Canada and to establish an open, efficient and stable domestic market.

**3 (1)** In this Act,

(a) "Agreement" means the Canadian Free Trade Agreement between the Government of Canada and the governments of all the provinces of Canada effective on July 1, 2017, as amended from time to time;

(b) "Canadian jurisdiction" means a jurisdiction the government of which is a party to the Agreement;

(c) "certification", in relation to a worker, means a certificate, licence, registration or other form of official recognition issued to the worker by the regulatory authority of a Canadian jurisdiction that attests that the worker is qualified and authorized to

- (i) practise a particular occupation in the Canadian jurisdiction, or
- (ii) use in the Canadian jurisdiction a particular occupational title, designation or abbreviated title or designation;
- (d) "Court" means the Supreme Court of Nova Scotia;
- (e) "Minister" means the Minister of Trade;
- (f) "regulatory authority" means a person or body designated by the regulations;
- (g) "worker" means an individual, whether employed, self-employed or unemployed, who performs or seeks to perform work for pay or profit.

(2) Subject to subsection (1) and the regulations, words and expressions in this Act have the same meaning as in the Agreement.

4 Where there is a conflict between this Act or the regulations and any other enactment, this Act and the regulations prevail.

5 This Act binds Her Majesty in right of the Province.

6 (1) Subject to subsection (2), no cause of action and no legal proceeding lies or may be brought or continued against the Government or another person to enforce or determine a right or obligation that is claimed or arises solely under or by virtue of the Agreement.

(2) Subsection (1) does not apply to a proceeding that is provided for under Chapter Ten of the Agreement.

## LABOUR MOBILITY

11 A regulatory authority shall ensure that any measure it adopts or maintains respecting the certification of workers in an occupation complies with the obligations of Chapter Seven of the Agreement.

12 (1) A regulatory authority may not adopt or maintain, with respect to an application for certification in relation to an occupation, a measure that is inconsistent with Chapter Seven of the Agreement, unless that measure is approved by the Minister of Labour and Advanced Education in consultation with such other members of the Executive Council as the Minister of Labour and Advanced Education considers relevant.

(2) A regulatory authority may not adopt, maintain or change an occupational standard except in accordance with Article 706 of Chapter Seven of the Agreement.

13 (1) A regulatory authority may, with the prior consent of the Minister of Labour and Advanced Education, waive or adapt any requirements for certification that have been established for an occupation, notwithstanding any other enactment in order to comply with Section 11 or 12 or an order made pursuant to Section 15.

(2) The Minister of Labour and Advanced Education may include such terms and conditions in a consent under subsection (1) as the Minister of Labour and Advanced Education considers necessary or advisable.

14 Notwithstanding any enactment, a person from another province of Canada who holds an Inter-provincial Standards (Red Seal) Program qualification is and must be recognized as qualified, certified or licensed to work in the Province in the trade or occupation to which the qualification relates by the officer, body or authority that regulates the trade or occupation in the Province.

15 (1) Subject to this Section, the Minister of Labour and Advanced Education may issue orders for the purpose of ensuring compliance with Sections 11 to 14.

(2) Sections 17 to 22 apply to orders issued under this Section, mutatis mutandis.

(3) Before issuing an order, the Minister of Labour and Advanced Education shall give written notice to the regulatory authority affected by it and allow the regulatory authority at least 30 days, or such other period as may be prescribed by the regulations, to make a written submission explaining the reason for the alleged non-compliance.

(4) An order must

(a) describe the way in which the regulatory authority has failed to comply;

(b) set out any action the regulatory authority must take to remedy the failure; and

(c) specify the period of time within which the order must be complied with.

16 Where an order issued pursuant to Section 15 requires a regulatory authority to make, amend or repeal a measure that is within the authority of the regulatory authority to make, amend or repeal and the regulatory authority fails to do so within the period specified in the order, the Governor in Council may make, amend or repeal the measure by regulation.

## **Cemetery and Funeral Services Act**

### CHAPTER 62 OF THE REVISED STATUTES, 1989

#### **Interpretation**

**2** In this Act,

(j) "lot" means a lot of land containing or which may contain one or more graves and includes a space within a building or structure which contains or may contain one or more places for the permanent placement of human remains;

#### **Cemetery plan required**

**21** (1) No person shall sell a lot in a cemetery or any right to use a lot in a cemetery unless a plan of the cemetery in accordance with the regulations has been filed with the Registrar and the lot being sold is shown on the plan.

#### **Compliance of plan with regulations**

(2) The Registrar shall not accept for filing a plan that is not in accordance with the regulations.

#### **Inspection of plan**

(3) Every plan filed with the Registrar may be inspected by any person during the regular office hours of the Registrar.

#### **Planning Act**

(4) The *Planning Act* does not apply to the subdivision of a cemetery into lots.

#### **Registry Act and Land Titles Act**

(5) The *Registry Act* and the *Land Titles Act* do not apply to an instrument to the extent that it affects a lot in a cemetery sold for burial or the right to use a lot in a cemetery for burial or in respect of which a purchase agreement for burial has been executed. R.S., c. 62, s. 21.

#### **Regulations**

**28** (1) The Governor in Council may make regulations

- (a) respecting the application of this Act;
- (b) prescribing functions and duties of the Registrar and inspectors, auditors and other persons appointed or engaged pursuant to this Act;
- (c) regulating, limiting or prohibiting the solicitation of pre-arranged funeral plans, pre-need cemetery plans and the sale of cemetery lots or the right to use a cemetery lot;
- (d) respecting the bonding of persons referred to in Section 27;
- (e) prescribing the requirements for trust agreements required by this Act;
- (f) governing the manner in which trust funds shall be kept and accounted for;
- (g) prescribing the requirements for care funds;
- (h) prescribing the requirements for licensing and the renewal of licences;
- (i) prescribing the terms and conditions subject to which licences are issued;
- (j) prescribing the requirements for cemetery plans to be filed with the Registrar;
- (k) respecting the requirements for the operation and maintenance of cemeteries and crematoria;
- (l) prescribing the classes of trustees who may be approved by the Registrar;

- (m) prescribing the records to be kept by persons referred to in Section 27;
- (n) respecting the inspection of cemeteries and crematoria;
- (o) respecting the examination of records required to be kept by this Act or the regulations;
- (p) requiring reports to be filed annually or on some other periodic basis or at the request of the Registrar by persons referred to in Section 27;
- (q) prescribing the form and content of reports required to be filed pursuant to this Act;
- (r) requiring the carrying of liability insurance by persons referred to in Section 27;
- (s) prescribing the maximum fees which may be charged for services by operators;
- (t) prescribing the minimum fee which shall be charged for maintenance of a lot, grave or memorial;
- (u) prescribing the maximum percentage of money payable under a pre-arranged funeral plan or pre-need cemetery plan on account of administrative expenses;
- (v) prescribing fees for the purposes of this Act and the regulations;
- (w) respecting the requirements for burial;
- (x) prescribing forms and providing for their use;
- (y) exempting any person or class of persons from this Act or the regulations or any provision of either of them;
- (z) defining any word or expression used in this Act and not expressly defined herein;
- (aa) respecting any matter necessary or advisable to carry out the intent and purpose of this Act.

### **Regulations Act**

(2) The exercise of the authority contained in subsection (1) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 62, s. 28.

## **Common Fields Act**

### CHAPTER 78

### OF THE

### REVISED STATUTES, 1989

### **Maintenance of boundaries**

**2** (1) Every proprietor of lands lying unfenced or in a common field shall once in two years, on six days notice given to him or his agent by an adjoining proprietor, run the lines and make up and keep up the boundaries of such lands by stones or other sufficient marks.

### **Penalty**

(2) Any person neglecting to do so shall be liable to a penalty of four dollars. R.S., c. 78, s. 2.

### **Maintenance of fence**

**3** (1) Every proprietor of any field adjoining a common field which is enclosed and improved shall, when his part of the fence dividing his land from such common field becomes defective, immediately make the same a legal fence.

### **Where failure to maintain**

(2) If he neglects to do so after three days notice given him by the field keeper or any proprietor,

any fence viewer on application may forthwith cause the same to be repaired, and the person who should have repaired the same shall pay double the expense of such repairs to the fence viewer. R.S., c. 78, s. 3.

## Companies Act

### CHAPTER 81

#### OF THE

#### REVISED STATUTES, 1989

amended 1990, c. 15, ss. 2 & 5 to 18; O.I.C. 91-828; O.I.C. 92-162; 1992, c. 10, s. 34

#### Who may incorporate

**9** Any one or more persons associated for any lawful purpose other than a banking, loan, trust or insurance company, may, by subscribing their names to a memorandum of association and otherwise complying with the requirements of this Act in respect of registration, form an incorporated company, with or without liability, that is to say, either

- (a) a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them, in this Act termed a "company limited by shares";
- (b) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up, in this Act termed a "company limited by guarantee"; or
- (c) a company not having any limit on the liability of its members, in this Act termed an "unlimited company". R.S., c. 81, s. 9.

#### Shared companies

**10** In the case of a company limited by shares,

- (a) the memorandum must state
  - (i) the name in all its language forms of the company, with "Incorporated", "Incorporée", "Limited" or "Limitée" as the last word in each form of its name,
  - (ii) the restrictions, if any, on the objects and powers of the company,
  - (iii) that the liability of the members is limited,
  - (iv) the amount of share capital, if any, with which the company proposes to be registered, and the division thereof into shares of a fixed amount,
  - (v) the total number of shares without nominal or par value which the company proposes to issue, if any, and
  - (vi) where the shares are to be both with and without nominal or par value, particulars thereof in accordance with subclauses (iv) and (v);
- (b) no subscriber of the memorandum may take less than one share; and
- (c) each subscriber must write opposite to his name the number of shares he takes, together with his address and occupation. R.S., c. 81, s. 10.

#### Guaranteed companies

**11** In the case of a company limited by guarantee,

- (a) the memorandum must state

- (i) the name in all its language forms of the company, with "Incorporated", "Incorporée", "Limited" or "Limitée" as the last word in each form of its name,
- (ii) the restrictions, if any, on the objects and powers of the company,
- (iii) that the liability of the members is limited, and

(iv) that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves such amount as may be required, not exceeding a specified amount; and

(b) if the company has a share capital,

(i) the memorandum must also state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount,

(ii) no subscriber of the memorandum may take less than one share, and

(iii) each subscriber must write opposite to his name the number of shares he takes, together with his address and occupation. R.S., c. 81, s. 11.

### **Unlimited companies**

**12** In the case of an unlimited company,

(a) the memorandum must state

(i) the name in all its language forms of the company, and

(ii) the restrictions, if any, on the objects and powers of the company; and

(b) if the company has a share capital,

(i) no subscriber of the memorandum may take less than one share, and

(ii) each subscriber must write opposite to his name the number of shares he takes, together with his address and occupation. R.S., c. 81, s. 12.

## **Condominium Act**

### CHAPTER 85 OF THE REVISED STATUTES, 1989

**amended** 1996, c. 33; 1998, c. 28, ss. 1-6, 8-16, 19(1)(a), (d)-(g), (6), 20, 22-27, 29

### **Interpretation**

**3** (1) In this Act,

(a) "accepted for registration" means accepted for registration by the Registrar in accordance with this Act and "submitted for registration" means submitted for registration to the Registrar in accordance with this Act;

(b) "board" means the board of directors of a corporation;

(c) "buildings" means the buildings, if any, included in a property;

(d) "by-law" means a by-law of a corporation;

(e) "claim" includes a right, title, interest encumbrance or demand of any kind affecting land, but does not include the interest of an owner in his unit and common interest;

- (f) "common elements" means all the property except the units;
  - (g) "common expenses" means the expenses incurred in the performance of the objects and duties of a corporation and any expenses specified as common expenses in a declaration;
  - (h) "common interest" means the interest in the common elements appurtenant to a unit;
  - (i) *repealed 1998, c. 28, s. 1.*
  - (j) "corporation" means a corporation incorporated by this Act;
  - (k) "Court" means the Supreme Court of Nova Scotia;
  - (l) "declarant" means a person who owns the freehold estate in the land described in the description and who submits for registration pursuant to this Act a declaration and description that are registered pursuant to this Act, and includes a successor or assignee of that person, but does not include a purchaser in good faith of a unit who pays fair market value or a successor or assignee of the purchaser;
  - (m) "declaration" means the declaration specified in Section 11 and includes any amendments;
  - (n) "description" means the description specified in Section 12 as amended from time to time;
  - (o) "encumbrance" means a claim that secures the payment of money or the performance of any other obligation, and includes a mortgage and a lien;
  - (p) *repealed 1998, c. 28, s. 1.*
  - (q) "owner" means the owner or owners of the freehold estate or estates in a unit and common interest, but does not include a mortgagee unless in possession;
  - (r) "prescribed" means prescribed by the regulations;
  - (s) "property" means the land and interests appurtenant to the land described in the description, and includes any land and interests appurtenant to land that are added to the common elements;
  - (t) "proposed unit" means land described in an agreement of purchase and sale that provides for delivery to the purchaser of a deed or other conveyance capable of being registered after a declaration and description relating to the property including the land have been accepted for registration;
  - (u) "registered" means registered pursuant to the *Registry Act*;
  - (v) "Registrar" means the Registrar of Condominiums;
  - (w) "surveyor" means a person authorized to practise surveying or to make a survey in the Province;
  - (x) "unit" means a part or parts of the land included in the description and designated as a unit by the description, and comprises the space enclosed by its boundaries and all the material parts of the land within this space in accordance with the declaration and description.
- (2) For the purposes of this Act, the ownership of land includes the ownership of space.
- (3) In this Act, a person is the occupant of a unit if that person is, pursuant to an agreement, including a lease or a sub-lease, lawfully in possession of the unit but is not an owner of the unit.
- R.S., c. 85, s. 3; 1998, c. 28, s. 1.

PART II  
REGISTRATION

**Requirements**

**6** (1) A property shall comprise only freehold land and interests, if any, appurtenant to that land.  
(2) A declaration and description may be submitted for registration by or on behalf of the owner of the freehold estate in the land described in the description.

(3) A report on title, prepared in accordance with the regulations showing the owner by whom the declaration and description are being submitted for registration as the owner of the freehold interest in the land, shall be submitted to the Registrar before the declaration and description are accepted for registration.

(3A) There shall also be submitted with the declaration and description

(a) a plan of survey of the property, prepared by a surveyor in accordance with the regulations;

(b) proposed by-laws, of the corporation that would be created if the declaration and description are accepted for registration,

(i) governing the management of the property,

(ii) governing the use of units or any of them for the purpose of preventing unreasonable interference with the use and enjoyment of the common elements and other units,

(iii) governing the use of the common elements,

(iv) regulating the maintenance of the units and common elements,

(v) governing the use and management of the assets of the corporation,

(vi) respecting the board,

(vii) specifying the duties of the corporation,

(viii) regulating the assessment and collection of contributions towards the common expenses, and

(ix) respecting the conduct generally of the affairs of the corporation; and

(c) any information that the Registrar thinks is necessary for the purpose of the submission.

(4) There shall also be submitted with the declaration and description an appointment in a form acceptable to the Registrar giving the name and address of a recognized agent resident within the Province, service upon whom of any summons, process, notice or other document shall be deemed to be sufficient service upon the corporation.

(5) Upon acceptance of a declaration and description for registration, the land and the interests appurtenant to the land described in the description are governed by this Act. R.S., c. 85, s. 6; 1998, c. 28, s. 2.

**Condominium Corporations Register**

**9** (1) Every registrar of deeds designated by the Governor in Council shall keep one or more separate books of registry of a kind approved by the Governor in Council to be known as the Condominium Corporations Register and shall register therein only such declarations, descriptions, by-laws, notices of termination and other instruments as may be received by him from the Registrar of Condominiums.

(2) Every declaration registered in the Condominium Corporations Register shall be entered in the consolidated index under the name of the owner by whom the declaration was submitted for registration as grantor and the condominium corporation as grantee.

- (3) Every other instrument registered in the Condominium Corporations Register shall be indexed in the consolidated index in accordance with the regulations.
- (4) In any instrument relating to a unit and common interest, other than the description, it is a sufficient description thereof if the name of the corporation and the unit number are included.
- (5) Except as otherwise provided by this Act and the regulations, the *Registry Act* applies in respect of property governed by this Act. R.S., c. 85, s. 9.

### **Contents and approval of description**

- 12** (1) A description shall contain the following prepared in accordance with the regulations:
- (a) a plan of survey showing the perimeter of the horizontal surface of the land and the perimeter of the buildings, if any;
  - (b) structural plans of the buildings, if any;
  - (c) a specification of the boundaries of each unit by reference to the buildings, or if there are no buildings, by reference to the appropriate co-ordinate monument;
  - (d) diagrams showing the shape and dimensions of each unit and the approximate location of each unit in relation to the other units and the buildings, if any;
  - (e) a certificate of a person who is authorized to practise architecture in the Province that all buildings have been constructed substantially in accordance with the architectural plans and, if there are structural plans, a certificate of a person who is authorized to practise engineering, as defined in the *Engineering Profession Act*, that all buildings have been constructed substantially in accordance with the structural plans;
  - (f) if no buildings are included in a property, a certificate of a surveyor that the horizontal boundaries of the units have been monumented on the ground in the prescribed manner and that the diagrams of the units are substantially accurate and substantially in accordance with the monuments so placed; and
  - (g) a description of any interests appurtenant to the land that are included in the property.
- (2) A description shall not be accepted for registration unless it has been approved by the Registrar in accordance with the regulations.
- (3) The description may be amended only with the consent of the owners of at least fifty-one per cent of the common elements.
- (4) Notwithstanding subsection (3), the Registrar may amend a description that is registered without the consent referred to in that subsection in order to correct a grammatical, clerical, typographical or printing error or an error in mathematics and shall deal with the amendment as provided in Section 7. R.S., c. 85, s. 12; revision corrected 1997; 1998, c. 28, s. 6.

## PART V CONDOMINIUMS

### **Units and common interests**

- 27** (1) Units and common interests are real property for all purposes.
- (2) Subject to this Act, the declaration and the by-laws, each owner is entitled to exclusive ownership and use of that persons unit.
- (3) No condition shall be permitted to exist and no activity shall be carried on in any unit or the common elements that are likely to damage the property.
- (4) The corporation or any person authorized by the corporation may enter any unit at any reasonable time to perform the objects and duties of the corporation. R.S., c. 85, s. 27.

**Easements**

**29 (1)** The following easements are appurtenant to each unit:

- (a) first: where a building or any part of a building
  - (i) moves after acceptance of the declaration and description for registration, or
  - (ii) after having been damaged and repaired, is not restored to the position occupied at the time of acceptance of the declaration and description for registration, an easement for exclusive use and occupation in accordance with this Act, the declaration and the by-laws, over the space of the other units and common elements that would be space included in the unit if the boundaries of the unit were determined by the position of the buildings from time to time after acceptance of the description for registration and not at the time of acceptance for registration;
- (b) second: an easement for the provision of any service through any installation in the common elements or any other unit; and
- (c) third: an easement for support and shelter by the common elements and any other unit capable of providing support and shelter.

(2) The following easements are appurtenant to the common elements:

- (a) first: an easement for the provision of any service through any installation in any unit; and
- (b) second: an easement for support and shelter by any unit capable of providing support and shelter.

(3) All ancillary rights and obligations reasonably necessary to make easements effective apply in respect of easements implied or created by this Act. R.S., c. 85, s. 29.

## **Conservation Easements Act**

### CHAPTER 2 OF THE ACTS OF 1992

**Designation of natural areas**

**3 (1)** The Governor in Council may, with the consent of the owner of land, by order, designate that land as a natural area if the land

- (a) contains natural ecosystems or constitutes the habitat of rare, threatened or endangered plant or animal species;
- (b) contains outstanding botanical, zoological, geological, morphological or palaeontological features;
- (c) exhibits exceptional and diversified scenery;
- (d) provides a haven for concentrations of birds and animals;
- (e) provides opportunities for scientific or educational programs in aspects of the natural environment;
- (f) is representative of the ecosystems, landforms or landscapes of the Province.

**Easement or covenant**

**4 (1)** The Minister or a designated conservation organization may enter into an easement or covenant with the owner of a natural area respecting a natural area for a stated period or in

perpetuity.

### **Registration**

(2) An easement or covenant entered into pursuant to subsection (1) shall be registered in the registry of deeds for the registration district in which the land to which the easement or covenant relates is situate.

### **Burden on title**

(3) Whether or not an easement or covenant registered pursuant to subsection (1) is positive or negative and whether or not Her Majesty in right of the Province, the Minister or a designated conservation organization owns any land that is benefitted or accommodated by the easement or covenant, the easement or covenant runs with and burdens the title to the land to which it relates and the Minister or a designated conservation organization may enforce the easement or covenant against the owner who entered into the easement or covenant or any subsequent owner or occupier of the land.

### **Assignment**

(4) An easement or covenant entered into pursuant to subsection (1) may be assigned by a designated conservation organization to another designated conservation organization or to the Minister or, with the approval of the Governor in Council, by the Minister to a designated conservation organization and, where the easement or covenant is so assigned, the easement or covenant continues to run with the land and the assignee may enforce the easement or covenant even if the assignee owns no other land that would be benefitted or accommodated by the easement or covenant. 1992, c. 2, s. 4.

## **Conveyancing Act**

### CHAPTER 97

### OF THE

### REVISED STATUTES, 1989

### **Meaning of terms in deed**

**3** (1) Where a deed made according to the form set forth in Schedule A to this Part, or any such deed expressed to be made in pursuance of this Part, or referring thereto, contains any of the forms of words contained in column one of Schedule D to this Part and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if it contained the form of words contained in column two of said Schedule D, and distinguished by the same number as is annexed to the form of words used in the deed, but it shall not be necessary in any such deed to insert any such number.

### **Grant of whole estate**

(2) Such deed, if purporting to grant to the grantee the lands therein described "in fee simple", shall be sufficient to convey to the grantee the whole estate of the grantor in such lands. R.S., c. 97, s. 3.

### **Meaning of terms in lease**

**4** Where a lease under seal made according to the form set forth in Schedule B to this Part, or any other such lease expressed to be made in pursuance of this Part, or referring thereto, contains any of the forms of words contained in column one of Schedule E to this Part and distinguished by any number therein, such lease shall be taken to have the same effect, and be construed as if it

contained the form of words contained in column two of said Schedule E and distinguished by the same number as is annexed to the form of words used in the lease, but it shall not be necessary in any such lease to insert any such number. R.S., c. 97, s. 4.

**Scheduling deemed part of Act**

**8** The Schedules A, B, C, D, E, F and G to this Part, and the directions and forms therein contained, shall be deemed parts of this Act. R.S., c. 97, s. 8.

SCHEDULE A  
Form of Deed

This Indenture made the . . . . . day of . . . . . one thousand nine hundred and . . . . .  
. . . in pursuance of Part I of the *Conveyancing Act*.

Between (*here insert names of parties, and recitals if any*), Witnesseth, that in consideration of . . . . . dollars, of lawful money of Canada, now paid by the said (*grantee*) to the said (*grantor*) the receipt whereof is hereby by him acknowledged, he the said (*grantor*) doth grant unto the said (*grantee*) in fee simple (*or otherwise as the case may be*) etc., all, etc., (*parcels*) (*here insert covenants, or any other provisions*)

In witness whereof the said parties hereto have hereunto set their hands and seals.  
R.S., c. 97, Sch. A.

**Effective conveyance**

**10** (1) A conveyance that identifies the parties and property, and specifies the property right to be conveyed, and which is validly executed, is effective to convey that property right.

**No special words required**

(2) A conveyance does not require a *habendum* or any special form of words, terms of art or words of limitation.

**Conveyance read as a whole**

**11** (1) A conveyance shall be read as a whole and if it contains contradictory provisions the later provisions shall be effective.

**Effectiveness of instrument**

(2) An instrument which is not effective to convey may yet be effective as an agreement to convey or as evidence thereof. R.S., c. 97, s. 11.

**Presumptions underlying conveyance**

**13** Except where a contrary intention appears by the conveyance,

- (a) where words of limitation are not used, the conveyance conveys the whole property right that the party conveying had power to dispose of by the conveyance, including, in the case of real property, the fee simple;
- (b) where a consideration is stated therein, it is presumed to have been given at or before the execution of the conveyance, until the contrary is proved;
- (c) the parties are deemed to agree that it shall enure to the benefit of, and bind, them and their respective representatives and assigns;
- (d) a conveyance of any property right in land includes the buildings, easements, tenements, hereditaments and appurtenances belonging or in anywise appertaining to that property right. R.S., c. 97, s. 13.

**Crown Lands Act**  
CHAPTER 114  
OF THE  
REVISED STATUTES, 1989

**Object and purpose**

**2** The object and purpose of this Act is to provide for the most effective utilization of Crown lands by

- (a) the application of proven forest management techniques to enhance productivity on Crown lands and to provide for an increasing harvest of better quality forest products;
- (b) requiring that leasing and licensing arrangements on Crown lands are providing for equitable stumpage rates, adequate investments in forest improvements and improved market access for privately produced wood;
- (c) the integration of wildlife and outdoor recreation considerations in the forest management planning process on Crown lands; and
- (d) the more effective administration and management of all Crown lands. R.S., c. 114, s. 2.

**Interpretation**

**3** In this Act,

- (a) "conservation officer" means a conservation officer appointed pursuant to this Act, the *Forests Act* or the *Wildlife Act*;
- (b) "Crown" means Her Majesty in right of the Province;
- (c) "Crown lands" means all or any part of land under the administration and control of the Minister;
- (d) "Department" means the Department of Lands and Forests;
- (e) "Director of Surveys" means the Director of Surveys appointed pursuant to this Act;
- (f) "forest" means a plant association consisting predominantly of trees;
- (g) "forest access road" means a road or part of a road to the fullest extent of the right of way of such road and includes the bridges, shoulders and ditches but does not include a public highway or public road or the bridge thereon;
- (h) "forest land" means land bearing forest growth or land from which the forest has been removed but which shows surface evidence of past forest occupancy and is not in other use;
- (i) "grant", when used as a verb, means the transfer of an interest in Crown lands and, when used as a noun, means the initial transfer of Crown lands from the Crown to a person;
- (j) "lease" means a lease of Crown lands made pursuant to this Act or any special or general enactment, or a lease of Crown lands in force on the twenty-ninth day of May, 1987, and made pursuant to Chapter 163 of the Revised Statutes, 1967;
- (k) "lessee" means the holder of a lease;
- (l) "licence" means a licence in respect of Crown lands given pursuant to this Act or any special or general enactment, or a licence of Crown lands in force on the twenty-ninth day of May, 1987, and made pursuant to Chapter 163 of the Revised Statutes, 1967;
- (m) "licensee" means a holder of a licence;

- (n) "Minister" means the Minister of Lands and Forests;
- (o) "Registrar" means the Registrar of Crown Lands appointed pursuant to this Act;
- (p) "structure" includes a building, camp, trailer, houseboat, raft, wharf, fence or wall;
- (q) "stumpage" means the amount as determined by the Minister which is payable to the Crown for timber harvested on Crown lands;
- (r) "timber" means all trees of any species or size whether standing, fallen, cut or harvested;
- (s) "vehicle" means any vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered pursuant to the *Motor Vehicle Act*, and includes a motor boat or motor vessel;
- (t) "wildlife" means any species of vertebrate which is wild by nature and hence not normally dependent on man to directly provide its food, shelter or water;
- (u) "wood-processing facility" means a mill in which timber is manufactured into secondary wood products;
- (v) "woods" means forest land, rock barren, brushland, dry marsh, bog and muskeg. R.S., c. 114, s. 3.

### **Powers of Minister**

**5** The Minister has supervision, direction and control of

- (a) the acquisition, registration, survey and sale or disposition of Crown lands; and
- (b) the administration, utilization, protection and management of Crown lands, including
  - (i) access to and travel on Crown lands,
  - (ii) habitats for the maintenance and protection of wildlife on Crown lands,
  - (iii) harvesting and the renewal of timber resources on Crown lands,
  - (iv) forest recreation on Crown lands, and
  - (v) matters that may be assigned pursuant to this Act and the regulations,

but not including land owned or claimed by the Province specifically under the jurisdiction of another member of the Executive Council or a department, branch or agency of the Government other than the Department. R.S., c. 114, s. 5.

### **Dealing with land**

**7** With the approval of the Governor in Council, the Minister may

- (a) acquire by purchase or gift any land or interest in land;
- (b) acquire by lease or licence any land or interest in land;
- (c) exchange Crown lands for privately owned land;
- (d) acquire an easement or right of way across privately owned land. R.S., c. 114, s. 7.

### **Transfer of administration**

**8** (1) With the approval of the Governor in Council, the Minister may accept the transfer of the administration and control of land from the Government of Canada or an agency thereof.

### **Acceptance of transfer**

(2) The Minister may by letter accept the transfer of the administration and control of land administered by another Provincial government department. R.S., c. 114, s. 8.

### **Title to land acquired**

**9** All land acquired pursuant to this Act is vested in the Crown and is deemed to be Crown lands under the administration and control of the Minister. R.S., c. 114, s. 9.

**Registrar of Crown Lands**

10 (1) The Minister may designate a person in the Department to be Registrar of Crown Lands for the purpose of this Act.

**Storing and recording documents**

(2) The Registrar shall maintain such land-record facilities as are deemed necessary to store and record all land-related documents involving Crown lands and such other land as is directed by the Governor in Council.

**Land information**

(3) The Registrar shall be responsible for co-ordinating and consolidating information relating to that land identified in subsection (2). R.S., c. 114, s. 10.

**Records and plans**

11 (1) The Minister shall keep on file in the Department records and plans showing the location of Crown lands and such other land and boundaries thereof as are directed by the Governor in Council.

**Liability of Minister**

(2) The Minister shall not be liable for the accuracy of information represented on maps prepared by the Department which present graphic indexes of the location of Crown lands and other land which has been granted or otherwise conveyed by the Crown. R.S., c. 114, s. 11.

**Boundaries**

12 (1) The Minister shall ensure that the boundaries of Crown lands are surveyed and kept maintained.

**Director of Surveys**

(2) The Minister may designate a person in the Department to be Director of Surveys for the purpose of this Act.

**Standards for surveys**

(3) All boundary surveys of Crown lands shall comply with the *Land Surveyors Act* and regulations made thereto. R.S., c. 114, s. 12.

**Order of survey required**

13 (1) No person shall survey a boundary of Crown lands without first obtaining an order of survey from the Director of Surveys.

**Notice to Director of Surveys**

(2) No person shall survey any boundaries touching or bordering Crown lands without first advising the Director of Surveys.

**Documents for Director**

(3) Upon completion of a boundary survey involving Crown lands, the surveyor shall, where prepared, submit a return of survey and a legible copy of field notes to the Director of Surveys.

**Changes prohibited**

(4) No changes in any records or plans on file with the Department shall be made on the basis of a return of survey until such return is approved by the Director of Surveys. R.S., c. 114, s. 13.

**Destruction or defacing line**

14 (1) No person shall destroy or deface any boundary line or any part thereof or remove, move or destroy any monument, pin, post or other marker placed on Crown lands to establish a boundary of Crown lands.

**Deemed boundary marker**

(2) In a prosecution with respect to an offence pursuant to this Section, any monument, pin, post

or other marker alleged to have been placed on Crown lands shall, in the absence of evidence to the contrary, be deemed to have been placed on Crown lands for the purpose of establishing a boundary thereon. R.S., c. 114, s. 14.

#### **Manner of dealing with Crown land**

**15** Crown lands shall not be granted, conveyed, sold or disposed of in any manner except as provided by this Act. R.S., c. 114, s. 15.

#### **Powers of Minister respecting land**

**16** (1) With the approval of the Governor in Council, the Minister may

- (a) issue a grant, deed, lease, licence or other conveyance for the disposition of Crown lands or any interest in Crown lands;
- (b) grant an easement or right of way with respect to Crown lands upon such terms and conditions as the Minister considers appropriate;
- (c) transfer the administration and control of Crown lands to the Government of Canada or an agency thereof.

#### **Transfer of administration**

(2) The Minister may by letter transfer the administration and control of Crown lands administered by the Department to another Provincial government department. R.S., c. 114, s. 16.

#### **Method of conveyance**

**18** (1) Title to any Crown lands which have not already been granted, may be conveyed by means of a grant.

#### **Execution of grant**

(2) All grants shall be signed by the Lieutenant Governor and the Minister and a second original shall be kept on permanent file in the Department.

#### **Copy to registrar of deeds**

(3) A copy of the grant and plan shall be forwarded to the registrar of deeds for the registration district where the land is situate.

#### **Duties of registrar**

(4) The registrar of deeds shall, without fee or charge, register the instrument in compliance with the *Registry Act*.

#### **Registration without proof**

(5) All grants signed or purported to be signed by the Lieutenant Governor and the Minister which bears their respective seals may be registered without proof of execution. R.S., c. 114, s. 18.

#### **Conveyance of road reserves**

**20**(2) Where Crown lands have been reserved for a road or for another purpose and are not used for that purpose or provide a hindrance to the development of the area, the Minister, with the approval of the Governor in Council, may convey all or a portion of the land so reserved to such persons on such terms and conditions as the Minister deems appropriate. R.S., c. 114, s. 20.

#### **Powers of Minister respecting conditions**

**21** (1) Where a grant, deed or other conveyance affecting Crown lands issued pursuant to this Act or any previous Act contains a condition that the land is to be used in a particular manner, the Minister may

- (a) declare the grant, deed or other conveyance null and void if the land is being used in violation of the condition;
- (b) with the approval of the Governor in Council, order the release of all or part of the land from a condition; or

(c) upon the payment of the prescribed fee, extend the time for the performance of a condition.

#### **Reversion to Crown**

(2) Where the Minister makes a declaration pursuant to clause (a) of subsection (1), the land reverts to the Crown.

#### **Copy to registrar of deeds**

(3) A copy of a declaration, order or extension made pursuant to subsection (1) shall be forwarded to the registrar of deeds for the registration district where the land is situate.

#### **Structure and personal property Crown property**

(4) Any structure or personal property remaining on Crown lands after the revocation, cancellation or termination of a grant, deed or other conveyance is the property of the Crown and may be disposed of in the manner the Minister deems expedient. R.S., c. 114, s. 21.

#### **Rectification of conveyance**

**22** (1) The Minister may issue a grant or deed of rectification where a grant, deed or other conveyance of Crown lands contains a clerical error, a misnomer or a wrong or defective description or plan of the land.

#### **Effective date**

(2) A grant or deed of rectification relates back to the original grant or deed with respect to which it is made and has effect as if it were issued on the date of the issue of that grant or deed and has the effect of correcting with necessary modifications every instrument made by the grantee or any person claiming through or under the grantee prior to the date of the corrected document.

#### **Vacating conveyance**

(3) The Minister, with the approval of the Governor in Council, may by order vacate a grant, deed or other conveyance of Crown lands in whole or in part that was issued as a result of fraud or misrepresentation or is manifestly in derogation of the public interest and thereupon the land reverts to the Crown as if the grant, deed or other conveyance had not been made, subject to the rights of *bona fide* purchasers for value or a person whose title is derived therefrom.

#### **Copy to registrar of deeds**

(4) A copy of a grant or deed of rectification or an order vacating a grant, deed or other conveyance of Crown lands shall be forwarded to the registrar of deeds for the registration district where the land is situate.

#### **Application of Section**

(5) This Section applies to all grants, deeds or conveyances whether made before or after the twenty-ninth day of May, 1987. R.S., c. 114, s. 22.

#### **Certificate**

**37** (1) Where it appears to the Minister that a person, known or unknown, has acquired rights or claim by possession in or to Crown lands and the Minister so reports to the Executive Council, the Governor in Council may authorize and direct the Minister to issue a certificate to the effect that the Crown asserts no interest or claim to the land and upon the issuance of the certificate all interest or claim of the Crown to the land described therein ceases.

#### **Registration of certificate**

(2) A certificate pursuant to this Section purporting to bear the signature and seal of the Minister shall be registered in the registry of deeds for the registration district in which the land therein described is situate without proof of the signature. R.S., c. 114, s. 37.

## **Ditches and Water Courses Act**

CHAPTER 132  
OF THE  
REVISED STATUTES, 1989

### **Application**

**2** This Act shall apply to municipalities and incorporated towns, and shall also apply as well to deepening or widening any ditch or drain already existing as to making a new ditch or drain. R.S., c. 132, s. 2.

### **Interpretation**

**3** In this Act,

- (a) "clerk" means municipal clerk in the case of a municipality, and town clerk in the case of a town;
- (b) "council" means municipal council in the case of a municipality, and town council in the case of a town;
- (c) "engineer" means a civil engineer, land surveyor, or such person as any council deems competent to perform the duties required under this Act;
- (d) "municipality" includes town. R.S., c. 132, s. 3.

## **Electronic Commerce Act**

CHAPTER 26 OF THE ACTS OF 2000

**2** In this Act,

- (a) "electronic" includes created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means;
- (b) "electronic signature" means information in electronic form that a person has created or adopted in order to sign a document and that is in, attached to or associated with the document;

**3(3) This Act does not apply in respect of**

- (a) wills and their codicils;
  - (b) trusts created by wills or by codicils to wills;
  - (c) powers of attorney, to the extent that they are in respect of the financial affairs or personal care of an individual; or
  - (d) documents that create or transfer interests in land and that require registration to be effective against third parties.
- (4) Except for Part III, this Act does not apply in respect of negotiable instruments, including negotiable documents of title.
- 11** (1) A requirement under the law of the Province for the signature of a person is satisfied by an electronic signature.

**13** An electronic document is deemed not to be capable of being retained if the person providing the electronic document inhibits the printing or storage of the electronic document by the recipient.

**14** A requirement under the law of the Province to retain a document is satisfied by the retention of an electronic document if

- (a) the electronic document is retained in the format in which it was made, sent or received, or in a format that does not materially change the information contained in the document that was originally made, sent or received;
- (b) the information in the electronic document will be accessible so as to be usable for subsequent reference by any person who is entitled to have access to the document or who is authorized to require its production; and
- (c) where the electronic document was sent or received, information, if any, that identifies the origin and destination of the electronic document and the date and time when it was sent or received is also retained.

**24** (1) Unless the originator and the addressee agree otherwise, an electronic document is sent when it enters an information system outside the control of the originator or, where the originator and the addressee are in the same information system, when it becomes capable of being retrieved and processed by the addressee.

(2) An electronic document is presumed to be received by the addressee

- (a) when it enters an information system designated or used by the addressee for the purpose of receiving documents of the type sent and it is capable of being retrieved and processed by the addressee; or
- (b) where the addressee has not designated or does not use an information system for the purpose of receiving documents of the type sent, when the addressee becomes aware of the electronic document in the addressee's information system and the electronic document is capable of being retrieved and processed by the addressee.

(3) Unless the originator and the addressee agree otherwise, an electronic document is deemed to be sent from the originator's place of business and is deemed to be received at the addressee's place of business.

(4) For the purpose of subsection (3),

- (a) where the originator or the addressee has more than one place of business, the place of business is that which has the closest relationship to the underlying transaction to which the electronic document relates or, where there is no underlying transaction, the principal place of business of the originator or the addressee; and
- (b) where the originator or the addressee does not have a place of business, the references to "place of business" in subsection (3) are to be read as references to "habitual residence".

**Engineering Profession Act**  
CHAPTER 148  
OF THE  
REVISED STATUTES, 1989

**Interpretation****2** In this Act,

- (a) "Association" means the Association of Professional Engineers of the Province of Nova Scotia;
- (b) "Board" means the Board of Examiners of the Association or such members of the Board as may be deputed by the Council to examine credentials or conduct examinations;
- (c) "by-laws" means by-laws of the Association;
- (d) "certificate of registration" means a certificate in force under this Act which is issued to a member;
- (e) "Council" means the Council of the Association;
- (f) "engineer" means a person who through specialized education, training and experience is skilled in the principles and practice of engineering;
- (g) "engineering" means the science and art of designing, investigating, supervising the construction, maintenance or operation of, making specifications, inventories or appraisals of, and consultations or reports on machinery, structures, works, plants, mines, mineral deposits, processes, transportation systems, transmission systems and communication systems or any other part thereof;
- (h) "engineer-in-training" means a person enrolled as an engineer-in-training in good standing;
- (i) "licence to practise" means a licence to practise professional engineering issued and in force under this Act;
- (j) "licensed to practise" means holding a licence to practise;
- (k) "member" means a registered member of the Association in good standing;
- (l) "President" means the President of the Association;
- (m) "professional engineer" means a person who practises professional engineering;
- (n) "professional engineering" means application of engineering for gain, hire or hope of reward, either directly or indirectly;
- (o) "Registrar" means the Registrar of the Association;
- (p) "Secretary" means the Secretary of the Association;
- (q) "Treasurer" means the Treasurer of the Association;
- (r) "Vice-president" means the Vice-president of the Association. R.S., c. 148, s. 2.

**Objects****5** The objects of the Association are to

- (a) promote and improve the proficiency of professional engineers in all matters relating to the profession of engineering;
- (b) do all such matters and things as will advance and protect the interests of professional engineers in the profession of engineering;
- (c) assure the general public of the proficiency and competency of professional engineers in the practice of engineering;
- (d) do all such other matters and things as may be necessary for or incidental or

conducive to the welfare of professional engineers and their usefulness to the public. R.S., c. 148, s. 5.

### **Qualifications of member**

**7** (1) Any person shall be entitled to be registered as a member of the Association upon filing with the Registrar satisfactory proof that such person is a resident of the Province, has tendered the fees and dues prescribed by the by-laws, and

- (a) has obtained a degree in engineering from a school, college or university, which degree is approved by the Council, and has had two years experience in engineering;
- (b) has obtained a degree in science, other than engineering, from a school, college or university, which degree is approved by the Council, and has had four years experience in engineering;
- (c) is a registered member of an association of engineers, which association in the opinion of the Council is similarly constituted and has similar membership requirements to this Association, and furnishes the Registrar with a certificate of membership in good standing in such other association;
- (d) has passed the examinations prescribed by the Council and has had sufficient number of years of experience in engineering to qualify such person in the opinion of the Council to practise professional engineering; or
- (e) has had in the opinion of the Council outstanding experience in engineering.

### **Registration on compliance with subsection (1)**

(2) Every person, who in the opinion of the Council, expressed by a resolution thereof, has complied with subsection (1), shall be registered as a member. R.S., c. 148, s. 7.

### **Qualifications of non-resident**

**8** (1) Any person, not resident of the Province, shall be entitled to a licence to practise upon tendering the fees, and dues prescribed by the by-laws and filing with the Registrar satisfactory proof that

- (a) such person is a registered member in good standing of an association of engineers, which association in the opinion of the Council is similarly constituted and has similar membership requirements to the Association; or
- (b) such person is qualified to practise professional engineering, but is a resident of a province, state or country in which there is no association similarly constituted.

### **Act does not apply**

**10** This Act shall not apply to any person

(c) while applying engineering to a project on his own property for the sole use of his domestic establishment, or elsewhere to a project of a value not exceeding five thousand dollars, where in either case that engineering in the opinion of the Council does not involve safety of other persons;

### **Illegal practice by non-member**

**20** Any person, not a member or licensed to practise, or whose certificate of registration or licence to practise has been suspended or cancelled under this Act, who

- (a) practises professional engineering;
- (b) uses verbally or otherwise the title of professional engineer or any abbreviation of such title, or any name, title, description or designation that may lead any person to believe that such person is a professional engineer, a member of the Association, licensed to practise, or entitled to practise professional engineering; or

(c) advertises, holds out or conducts himself in any way implying or leading any person to believe that such person is a professional engineer, a member of the Association, licensed to practise, or entitled to practise professional engineering, shall be liable upon summary conviction to a fine of not less than one hundred dollars nor more than two hundred dollars and costs, and on failure to pay the same, to imprisonment for not more than three months for the first offence, and for any subsequent offence to a fine of not less than two hundred dollars nor more than five hundred dollars and costs, and on failure to pay the same, to imprisonment for not more than six months. R.S., c. 148, s. 20.

### **Illegal practice by non-individual**

**21** Any partnership, association of persons or body corporate, not having as a partner or full-time permanent employee a person who is a member or licensed to practise, that

- (a) undertakes or carries out the application of engineering;
- (b) uses verbally or otherwise any name, title, description or designation that may lead any person to believe that the partnership, association of persons, or body corporate is qualified or entitled to undertake or carry out the application of engineering; or
- (c) advertises, holds out or conducts itself in any way implying or intending to lead any person to believe that the partnership, association of persons or body corporate is qualified or entitled to undertake or carry out the application of engineering,

shall be guilty of an offence and the partnership or any partner thereof, the association of persons or any member thereof, or the body corporate, or any director thereof shall be liable upon summary conviction to a fine of not less than one hundred dollars nor more than five hundred dollars and costs and on failure to pay the same to imprisonment for not more than three months for the first offence, and for any subsequent offence to a fine of not less than two hundred dollars and not more than one thousand dollars and on failure to pay the same to imprisonment for not more than six months. R.S., c. 148, s. 21.

### **Limitation period**

**29** No proceeding shall be commenced for any violation of this Act after one year from the date of the committing of the violation. R.S., c. 148, s. 29.

## **Environment Act**

### CHAPTER 1

### OF THE

### ACTS OF 1994-95

**amended** 1998, c. 18, s. 557

### **Interpretation**

**3** In this Act,

- (a) "activity" means an activity or part of an activity prescribed by the regulations;
- (b) "administrator" means a person appointed by the Minister for the purpose of this Act, and includes an acting administrator;
- (c) "adverse effect" means an effect that impairs or damages the environment, including an adverse effect respecting the health of humans or the reasonable enjoyment of life or property;
- (d) "air" means open air not enclosed in a building, structure, machine, chimney, stack,

flue, tank or pipe;

(e) "analyst" means a person appointed as an analyst by the Minister pursuant to this Act;

(f) "approval" means an approval issued pursuant to this Act with respect to an activity, and includes the renewal of an approval;

(g) "Board" means the Nova Scotia Environmental Assessment Board established by Part IV;

(h) "certificate of qualification" means a certificate of qualification issued pursuant to this Act and includes the renewal of a certificate of qualification;

(i) "certificate of variance" means a certificate of variance issued pursuant to this Act;

(j) "class environmental assessment" means a planning process used for types of undertakings that occur frequently and have a generally predictable range of environmental effects;

(k) "contaminant" means, unless otherwise defined in the regulations, a substance that causes or may cause an adverse effect;

(l) "contaminated site" means a site designated as a contaminated site by the Minister pursuant to this Act;

(m) "Corps" means the Nova Scotia Youth Conservation Corps;

(n) "dangerous goods" means a substance designated as such in the regulations or conforming with criteria set out in the regulations;

(o) "Department" means the Department of the Environment;

(p) "designated material" includes a material prescribed as such in the regulations or conforming with criteria set out in the regulations;

(q) "document" includes a book, sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account, electronic device or any other device that stores or contains information;

(r) "environment" means the components of the earth and includes

(i) air, land and water,

(ii) the layers of the atmosphere,

(iii) organic and inorganic matter and living organisms,

(iv) the interacting natural systems that include components referred to in subclauses (i) to (iii), and

(v) for the purpose of Part IV, the socio-economic, environmental health, cultural and other items referred to in the definition of environmental effect;

(s) "environmental assessment" means a process by which the environmental effects of an undertaking are predicted and evaluated and a subsequent decision is made on the acceptability of the undertaking;

(t) "environmental-assessment report" means a report that presents the results of an environmental assessment;

(u) "environmental audit" means a process of independently obtaining and evaluating evidence about an environmental matter to determine the relationship between the environmental matter and the established standards and criteria;

(v) "environmental effect" means, in respect of an undertaking,

(i) any change, whether negative or positive, that the undertaking may cause in the environment, including any effect on socio-economic conditions, on environmental health, physical and cultural heritage or on any structure, site or

- thing including those of historical, archaeological, paleontological or architectural significance, and
- (ii) any change to the undertaking that may be caused by the environment, whether the change occurs inside or outside the Province;
- (w) "environmental-site assessment" means the process by which an assessor seeks to determine whether a particular property is or may be subject to contamination;
- (x) "focus report" means a report that presents the results of an environmental assessment of a limited range of adverse effects that may be caused by the undertaking;
- (y) "Fund" means the Resource Recovery Fund;
- (z) "Government" means Her Majesty in right of the Province;
- (aa) "Government agency" means
- (i) a person who is an agent of the Government, or
  - (ii) an agency, commission, board or other body, some or all of whose members are appointed by an Act of the Legislature, the Governor in Council or a member of the Executive Council, or any combination thereof;
- (ab) "groundwater" means all water naturally occurring under the surface of the Province;
- (ac) "handle" includes use, store, distribute, treat, manufacture, transport, generate, process, package, re-process, recycle, sell, offer for sale, dispose of and import into the Province;
- (ad) "inspector" means any person who is appointed as an inspector by the Minister, and includes any municipal or town police officer and any member of the Royal Canadian Mounted Police;
- (ae) "land" means surface land, land covered by water, subsoil, matter beneath the subsoil or any combination or part thereof;
- (af) "loss or damage" includes personal injury, loss of life, loss of use or enjoyment of property and pecuniary loss, including loss of income;
- (ag) "Minister" means the Minister of the Environment;
- (ah) "municipality" means a city, an incorporated town, a municipality of a county or district or village commissioners;
- (ai) "peace officer" means a peace officer within the meaning of the *Criminal Code* (Canada);
- (aj) "person" includes an individual and a partnership and, for greater certainty, a corporation, municipality and any other entity, and, without restricting the generality of the foregoing, the Government, a Government agency, and Her Majesty in right of Canada and a person acting on behalf of Her Majesty;
- (ak) "person responsible" means
- i) the owner of the substance or thing,
  - (ii) the owner or occupier of land on which an adverse effect has occurred or may occur,
  - (iii) a previous owner of the substance or thing,
  - (iv) a person who has or has had care, management or control, including care, management and control during the generation, manufacture, treatment, sale, handling, distribution, use, storage, disposal, transportation, display or method of application of the substance or thing,
  - (v) a successor, assignee, executor, administrator, receiver, receiver manager or

- trustee of a person referred to in subclauses (i) to (iv), or  
(vi) a person who acts as the principal or agent of a person referred to in subclauses (i) to (v);
- (al) "person responsible for the contaminated site" means
- (i) a person responsible for a substance that is over, in, on or under the contaminated site,
  - (ii) any other person whom the Minister considers to be responsible for causing or contributing to the release of a substance into the environment,
  - (iii) the owner or occupier of, or an operator on, the contaminated site,
  - (iv) any previous owner, occupier or operator of the contaminated site who was the owner, occupier or operator at any time when the substance was released over, in, on or under the contaminated site,
  - (v) a successor, assignee, executor, administrator, receiver, receiver manager or trustee of a person referred to in subclauses (i) to (iv), or
  - (vi) a person who acts as the principal or agent of a person referred to in subclauses (i) to (v);
- (am) "pesticide" or "pest control product" means
- (i) any substance that is intended, sold or represented for use in preventing, destroying, repelling or mitigating, directly or indirectly, any pest,
  - (ii) any substance that is a pest control product within the meaning of the *Pest Control Products Act* (Canada) or is intended for use as a pest control product,
  - (iii) any substance that is a plant growth regulator, a defoliant or a plant desiccant,
  - (iv) a fertilizer within the meaning of the *Fertilizers Act* (Canada) that contains a substance referred to in subclause (i), (ii) or (iii), or
  - (v) any other substance designated as a pesticide in the regulations, but does not include a substance that is intended, sold or represented for use in potable water to prevent or destroy bacteria, parasites or viruses if the substance is not a pest control product within the meaning of the *Pest Control Products Act* (Canada);
- (an) "place" includes any land, building, structure, machine, aircraft, vehicle or vessel;
- (ao) "proponent" means a person who
- (i) carries out or proposes to carry out an undertaking or activity, or
  - (ii) is the owner or person having care, management or control of an undertaking or activity;
- (ap) "registered owner" with respect to real property, means an owner of real property whose interest is defined and whose name is specified in an instrument recorded in a registry of deeds office, and includes a person shown as tenant of real property on the last revised assessment roll;
- (aq) "rehabilitation" includes
- (i) the removal of equipment or a building or other structure or appurtenance,
  - (ii) the conducting of an investigation to determine the presence of a substance,
  - (iii) the removal of a contaminant from land or water,
  - (iv) the stabilization, contouring, maintenance, conditioning or reconstruction of the surface of land,
  - (v) any other procedure, operation or requirement in accordance with this Act;

- (ar) "release" means to spill, discharge, dispose of, spray, inject, inoculate, abandon, deposit, leak, seep, pour, emit, empty, throw, dump, place, drain, pump or exhaust;
- (as) "Round Table" means the Nova Scotia Round Table on Environment and Economy;
- (at) "storage" means the holding of a substance for a temporary period at the end of which it is intended to be processed, used, transported, treated or disposed of;
- (au) "substance" means
- (i) matter that is capable of becoming dispersed in the environment,
  - (ii) matter that is capable of becoming transformed in the environment into matter referred to in subclause (i),
  - (iii) sound, vibration, heat, radiation or another form of energy, or
  - (iv) any combination of things referred to in subclauses (i) to (iii);
- (av) "Supreme Court" means the Supreme Court of Nova Scotia;
- (aw) "sustainable development" means development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs;
- (ax) "treat" means to apply any method, technique or process, including neutralization and stabilization that is designed to change the physical, chemical or biological concentration, character or composition of a substance;
- (ay) "Trust" means the Nova Scotia Environmental Trust;
- (az) "undertaking" means an enterprise, activity, project, structure, work or proposal and may include, in the opinion of the Minister, a policy, plan or program that has an adverse effect or an environmental effect and may include, in the opinion of the Minister, a modification, extension, abandonment, demolition or rehabilitation, as the case may be, of an undertaking;
- (ba) "waste" means a substance that would cause or tend to cause an adverse effect if added to the environment, and includes rubbish, slimes, tailings, fumes, smoke from mines or factories, other air emissions, or other industrial wastes, effluent, sludge, sewage, garbage, refuse, scrap, litter or other waste products of any kind;
- (bb) "waste dangerous goods" means a substance designated as such in the regulations or conforming with criteria set out in the regulations;
- (bc) "water resource" means all fresh and marine waters comprising all surface water, groundwater and coastal water;
- (bd) "water works" means any public, commercial or industrial works for the collection, production, treatment, storage, supply or distribution of water;
- (be) "watercourse" means
- (i) the bed and shore of every river, stream, lake, creek, pond, spring, lagoon or other natural body of water, and the water therein, within the jurisdiction of the Province, whether it contains water or not, and
  - (ii) all ground water;
- (bf) "watershed" means the area drained by, or contributing to a stream, lake or other body of water. 1994-95, c. 1, s. 3.

### **Environmental registry**

- 10** (1) The Minister shall establish an environmental registry containing
- (a) approvals;
  - (b) certificates of qualification;

- (c) certificates of variance;
- (d) orders, appeals, decisions and hearings made under this Act;
- (e) notices of designation given pursuant to this Act;
- (f) notices of a charge or lien given pursuant to Section 132;
- (g) policies, programs, standards, codes of practice, guidelines, objectives, directives and approval processes established under this Act;
- (h) convictions, penalties and other enforcement actions brought under this Act;
- (i) information or documents required by the regulations to be included in the registry;
- (j) annual reports; and
- (k) any other information or document considered appropriate by the Minister.

#### **Access to information**

(2) All information under the control of the Department is accessible to the public, subject only to the *Freedom of Information and Protection of Privacy Act* and, in particular, Section 21 of that Act.

## PART X

### WATER-RESOURCE MANAGEMENT

#### **Vesting of watercourses**

**103** Notwithstanding any enactment, or any grant, deed or transfer made on or before May 16, 1919, whether by Her Majesty or otherwise, or any possession, occupation, use or obstruction of any watercourse, or any use of any water by any person for any time whatever, but subject to subsection 3(2) of the *Water Act*, every watercourse and the sole and exclusive right to use, divert and appropriate any and all water at any time in any watercourse is vested forever in Her Majesty in right of the Province and is deemed conclusively to have been so vested since May 16, 1919, and is fully freed, discharged and released of and from every fishery, right to take fish, easement, *profit prendre* and of and from every estate, interest, claim, right and privilege, whether or not of the kind hereinbefore enumerated, and is deemed conclusively to have been so fully freed, discharged and released since May 16, 1919. 1994-95, c. 1, s. 103.

#### **Lead agency**

**104** The Department is designated as the lead agency of Government to

- (a) ensure that water is managed appropriately and used efficiently;
- (b) allocate water resources among competing users in a manner that will further sustainable development;
- (c) take such measures as are reasonable to provide access to safe, adequate and reliable water supplies for individual, municipal, industrial and agricultural uses;
- (d) ensure the health and integrity of aquatic ecosystems, to protect habitats for animals and plants and to provide for continued recreational benefits;
- (e) ensure informed decision making in water-resource management through public education and participation. 1994-95, c. 1, s. 104.

#### **Minister has supervision of water resources**

**105** (1) The Minister has supervision of the uses of all water resources and watercourses and the allocation of water in the Province.

**Water-resource management strategy**

(2) The Minister shall establish a water-resource management strategy for the Province.

**Powers of Minister**

- (3) To assist in the development of a water-resource management strategy, the Minister may
- (a) authorize, restrict or prohibit the alteration of watercourses;
  - (b) establish or adopt water-management goals;
  - (c) establish or adopt water-quality guidelines, objectives and standards;
  - (d) establish or adopt indicators of aquatic-ecosystem health and integrity;
  - (e) develop sensitivity indices for the water resources of the Province;
  - (f) establish or adopt goals for effluent reduction;
  - (g) establish total allowable wasteloads for water bodies;
  - (h) provide funding for water related research, investigation and monitoring;
  - (i) approve water works and sewage works and funding for water works and sewage works;
  - (j) approve watershed-protection strategies;
  - (k) adopt strategies to protect watersheds for specific uses;
  - (l) classify water resources according to their sensitivity or uses;
  - (m) promote water-resource management with any person who may have an interest, and co-ordinate the activities of the Government or any Government agency with interests and mandates related to water-resource management;
  - (n) co-operate with other agencies respecting areas naturally prone to flooding;
  - (o) operate a water utility for the Province.

**Public participation and advice**

(4) The Minister may identify any qualified persons, including water or watershed advisory boards, committees or authorities, and request those persons to promote informed public participation, provide advice to the Minister respecting watershed management and undertake such aspects of watershed management as may be assigned to those persons by the Minister. 1994-95, c. 1, s. 105.

**Designation continues**

**106**(5) Any protected water area designated pursuant to the *Water Act*, prior to the coming into force of this Act remains so designated.

**No rights by prescription**

**108** Possession, occupation, use or obstruction of any watercourse, or any use of any water resource by any person for any time whatever on or after May 17, 1919, shall not be deemed to give an estate, right, title or interest therein or thereto or in respect thereof to any person. 1994-95, c. 1, s. 108.

**Regulations**

- 110** (1) The Governor in Council may make regulations
- (a) respecting the uses to which specified watercourses may be put;
  - (b) defining contaminants for the purpose of this Part and prescribing permissible limits for such contaminants present in or being discharged into water or a watercourse;
  - (c) respecting the construction, operation, classification and maintenance of water-treatment facilities and sewage-treatment facilities and the operators of such facilities;
  - (d) respecting the infilling or alteration of wetlands, swamps, marshes, ravines or gulches;
  - (e) respecting the qualifications for well contractors and well pump installers;

- (f) providing for the issuing of tags, decals, plates, devices, documents or other things to a holder of a certificate of qualification to serve as evidence that a drilling machine is being operated under a certificate;
- (g) requiring and governing the taking of samples, tests, analysis, surveys and logs and other well data and the submission of them to the Minister;
- (h) governing the reclamation of wells and the methods and requirements to be observed in reclamation operations;
- (i) respecting remedial action to be taken with respect to problem wells;
- (j) respecting the control of flowing wells;
- (k) respecting the methods of drilling and digging wells, and of determining sources of ground water;
- (l) respecting the precautions and measures to be taken prior to and during the drilling, digging and development of a well;
- (m) respecting the casing, anchorage, equipment, materials and installations to be used in the drilling, completion, operation, reconditioning and production of wells;
- (n) respecting the maintenance of inactive wells;
- (o) respecting the ongoing maintenance and operation of active wells;
- (p) respecting the drilling and reclamation of wells;
- (q) respecting well log books;
- (r) generally, respecting any matter necessary or advisable to effectively carry out the intent and purpose of this Part.

### **Regulations Act**

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*, 1994-95, c. 1, s. 110.

### **Right of entry and inspection**

**119** (1) For the purpose of the administration of this Act, an inspector, subject to Sections 22 and 120, may, at any reasonable time,

- (a) enter and inspect any place to which an approval issued pursuant to this Act relates to determine
  - (i) the extent, if any, to which a substance may cause, is causing or has caused an adverse effect,
  - (ii) the cause of any adverse effect that may occur, is occurring or has occurred,
  - (iii) how an adverse effect may be prevented, eliminated, reduced or ameliorated and how the environment may be rehabilitated;
- (b) enter and inspect any place if the inspector has reasonable grounds to believe waste can be found in that place;
- (c) enter and inspect any place in or from which the inspector has reasonable grounds to believe a substance is being, has been or may be released into the environment;
- (d) enter and inspect any place that the inspector has reasonable grounds to believe is likely to contain documents related to
  - (i) an activity or thing that is or is required to be the subject of an approval, certificate of qualification, certificate of variance or order, or
  - (ii) the release of a substance into the environment;
- (e) enter and inspect any place that the inspector has reasonable grounds to believe is, or is required to be, the subject of or referred to in an approval, certificate of qualification,

certificate of variance or order;

(f) stop and inspect any vehicle, aircraft or vessel to ascertain whether it or the manner in which it is being operated complies with this Act;

(g) where the inspector has reasonable grounds to believe that any thing may release, is releasing or has released into the environment a substance that may cause, is causing or has caused an adverse effect,

(i) require the person having care, management or control of the thing to detain the thing at the place where it is found, or

(ii) remove the thing or cause it to be removed from the place where it is found and give a receipt for it;

(h) require the production of any documents that are required to be kept pursuant to this Act or any other documents that are related to the purpose for which the inspector is exercising any power under clauses (a) to (g).

#### **Water Act amended**

**176(14)** Section 2, subsection 3(1) and Sections 4 to 23 of Chapter 500 of the Revised Statutes, 1989, the *Water Act*, are repealed.

## **Escheats Act**

### CHAPTER 151

#### OF THE

### REVISED STATUTES, 1989

#### **Proceeding to revest in Crown**

**2** The Governor in Council may direct the Attorney General to take proceedings to revest in the Crown

(a) any lands comprised in any grant, or any part thereof, which have become forfeited to the Crown for non-fulfilment of the condition in the grant;

(b) any or all lands of persons dying intestate and leaving no heirs or persons entitled to the said lands under the laws of the Province. R.S., c. 151, s. 2.

#### **Publication of notice**

**4 (1)** A notice of the information so filed, with a brief description of the land therein mentioned, and specifying the date for appearance and pleading, shall be published at least twice in the Royal Gazette and in one or more newspapers published in the Province, and shall, for at least thirty days, be posted upon or near the door of the court house, and in five other conspicuous places in the county in which the lands lie.

#### **Service on resident of land**

(2) If any person is residing on the land, or any part thereof, that person shall be personally served with a copy of the notice, or the same shall be left at that persons place of abode with some person apparently above the age of sixteen years, and if no person is residing on the land, or any part thereof, a copy of the notice shall be posted up in some conspicuous place on the land.

#### **Service on encumbrancer**

(3) A copy of the notice shall be served upon each and every person appearing upon the

certificate of the registrar of deeds as an encumbrancer or as entitled to any interest in the lands, by delivering such notice to the person personally or by leaving the same at the persons place of abode with some person apparently above the age of sixteen years, or if such service cannot be so effected, in such other manner as the Court or judge may direct.

**Service by sheriff**

(4) The notice shall be posted and served by the sheriff of the county who shall, for his services, receive the fees mentioned in the *Costs and Fees Act*. R.S., c. 151, s. 4.

**Form of order**

**11** (1) The order for judgment may be in Form B in the Schedule to this Act, or to the like effect.

**Filing and registration**

(2) The original order shall be filed with the papers in the cause in the prothonotary’s office, and the prothonotary shall furnish certified copies of such order to the Minister of Lands and Forests, to be filed in the department, and to the registrar of deeds for the registration district in which the lands lie, to be registered by the registrar. R.S., c. 151, s. 11.

**Granting of revested land**

**21** (1) Subject to Section 15, the Governor in Council may grant any land which has revested in the Crown pursuant to this Act, or any part thereof or interest therein, to

- (a) a person who, in the opinion of the Governor in Council, had a legal or moral claim upon the person to whom the land belonged immediately prior to revesting in the Crown or a just or natural right or claim to succeed to the land, or any part thereof or interest therein;
- (b) carry into effect any disposition thereof that the Governor in Council believes the person to whom the land belonged immediately prior to it revesting in the Crown may have intended;
- (c) reward a person making discovery of the property to the Crown.

**Grant made without entry or taking possession**

(2) Any such grant may be made without actual entry or taking possession of the property or inquisition being first made, and, if possession of the property is withheld, the person to whom the grant is made may institute proceedings for the recovery thereof in any court of competent jurisdiction.

**Tabling of report**

(3) In each year in which the Governor in Council grants land pursuant to this Section, the Attorney General shall table in the House of Assembly a report setting forth the particulars of such grant. R.S., c. 151, s. 21.

Form B  
(Section 11)  
Judgment

In the (Trial Division *or* Appeal Division) of the Supreme Court, 19. . . . .

Between

Her Majesty the Queen, Plaintiff

and

....., Defendants

On reading the information herein, dated and filed the ..... day of ....., 19..... the notice of such information published in the Royal Gazette newspaper, the affidavit of the

Attorney General (*or some other person knowing the facts*), with the exhibits therein referred to; the affidavit of (*the sheriff or his deputy*), and the exhibit or exhibits in such affidavit referred to, and (it appearing that no appearance or defence has been entered herein) on motion (no one opposing). It is ordered and adjudged that the land mentioned in such information be and is hereby revested in Her Majesty the Queen.

**Evidence Act**  
CHAPTER 154  
OF THE  
REVISED STATUTES, 1989  
amended 1995-96, c. 13, s. 79

**Copies in Canada Gazette or Royal Gazette**

**12** All copies of official and other notices, advertisements and documents, printed in the Canada Gazette or in the Royal Gazette, shall be *prima facie* evidence of the originals, and of the contents thereof. R.S., c. 94, s. 11.

**If original record admissible evidence**

**13** In every case in which the original record could be received in evidence,

(a) a copy of any grant, map, plan, report, letter or official or public document, belonging to or deposited in any department of the Government of Canada, of this Province or of any province of Canada, purporting to be certified under the hand of any officer or person in whose custody such grant, map, plan, report, letter or official or public document is placed; and

(b) a copy of a document, by-law, rule, regulation or proceeding, or of any entry in any register, or other book of any municipal or other corporation created by charter or statute of Canada, of this Province or of any province of Canada, purporting to be certified under the seal of the corporation and the hand of the presiding officer, clerk or secretary thereof,

shall be received in evidence in any court without proof of the seal of the corporation, of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof, provided that no subpoena, no summons and no other process shall be issued or sued out requiring any person having the custody of any of the public documents set out in clause (a) to bring or produce before any court, judge or officer any of such public documents or records except upon an order of the court, judge or officer having jurisdiction in the cause or matter with respect to which such public documents or records are required to be brought or produced. R.S., c. 94, s. 12.

**Plan of township or respecting Crown grant**

**26** (1) The plan of any township, or the plan of partition, allotment or location of any Crown grant of land in this Province, may be proved in any court by the production

(a) of a copy of any such plan, certified by the Minister of Lands and Forests to be a copy of the original plan, or of the duplicate original plan, or the certified copy of the plan on file in his department; or

(b) of a copy of any such plan on file in the registry of deeds for the registration district in which such township or land granted is, in whole or part, situated, provided such copy is

certified by such Minister to be a true copy of the original plan, or of such duplicate or certified copy, on file in his department.

#### **Certificate of Prothonotary**

(2) Every such plan on file in such registry which bears the certificate of the Prothonotary, or of any of the former prothonotaries at Halifax, to the effect that such plan is an original plan returned to the office of the Prothonotary at Halifax, shall be *prima facie* evidence that the same is the original plan so returned.

#### **Proof of report not necessary**

(3) Every such plan or copy shall be received in evidence without proof of the report or other proceedings taken in respect to the partition, location or allotment of such township or grant.

#### **Certification by Minister of Lands and Forests**

(4) The report, allotment or other document in respect to any township, or in respect to the partition, allotment or location of any grant of land, may be proved in any court by the production of a copy, certified by the Minister of Lands and Forests to be a true copy of the original document on file in his department.

#### **More than one lot**

(5) If there is comprised in any such plan or document more than one lot of the original lots, it shall be sufficient to produce in evidence an extract, representing or having reference to the lot in question, certified to be a true extract, provided that the party intending to produce the same has, ten days before the trial, given to the party against whom it is intended to be produced notice of such intention. R.S., c. 94, s. 25.

#### **Copy of grant**

**27** (1) A copy of any duplicate original of a grant from the Crown deposited in the Department of Lands and Forests, certified by the Minister of Lands and Forests, or a copy of any grant from the books of registry for any registration district in which the land granted is situated, certified under the hand of the registrar of deeds, shall be received in evidence in any court to the same extent as the original grant.

#### **Reference to plan**

(2) If any such duplicate original contains a reference to any plan, and there is on file in such department a plan corresponding to the description in, or meeting the requirements of, the said duplicate original, such plan shall be deemed to be the plan referred to in such duplicate original, notwithstanding the same is not annexed to such a duplicate original. R.S., c. 94, s. 26.

#### **Copy of deed or document in registry book**

**28** A copy of any deed, or any document from the books of registry, certified under the hand of the registrar of deeds, or proved to be a true copy taken therefrom, shall be taken as evidence in the place of the original, if it is made to appear to the court, by the affidavit of the party, his agent, or solicitor, that such original is not in the possession or under the control of the party and that he has been unable to procure the same. R.S., c. 94, s. 27.

#### **Records of Registrar of Land Titles**

**29** (1) All records and copies of records that are required by law to be kept or held by a Registrar of Land Titles or Registrar General of Land Titles, and accurate reproductions of such records or copies, shall in any court be admissible in evidence as proof of the contents therein if certified as correct by the Registrar or Registrar General.

#### **"records" defined**

(2) In this Section, "records" means any information set down by handwriting, drawing,

typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other manner of setting down information for the purpose of data compilation and storage and includes a printout from a computer or similar device in a form which may be understood whether the printout is the result of a process of data retrieval or a replica of data stored. 1978, c. 41, s. 10.

### **Probate**

**30** (1) The probate of a will, or a copy thereof, certified under the hand of the registrar of probate, or proved to be a true copy of the original will, when such will has been recorded, shall be received as evidence of the original will, but the court may, upon due cause shown upon affidavit, order the original will to be produced in evidence, or may direct such other proof of the original will as under the circumstances appears necessary or reasonable for testing the authenticity of the alleged original will and its unaltered condition, and the correctness of the prepared copy.

### **Application of Section**

(2) This Section shall apply to wills and the probate, and copies of wills proved elsewhere than in this Province provided that the original wills have been deposited, and the probate and copies granted in courts having jurisdiction over the proof of wills and administration of intestate estates, or the custody of wills. R.S., c. 94, s. 28.

### **Deed or document registered in registry**

**33** (1) The registration of any deed or document registered in the registry of deeds may be proved in any court by the production of the certificate of registry, signed by the registrar, indorsed on such deed or document, or upon any such certified copy of such deed or document.

### **Production by registrar of deeds**

(2) No subpoena, no summons and no other process shall be issued or sued out requiring a registrar of deeds to bring or produce before any court, judge or officer any books of registry or any other records pertaining to the office of registrar of deeds except upon an order of the court, judge or officer having jurisdiction in the cause or matter in respect of which the books of registry or records are required to be brought or produced. R.S., c. 94, s. 31.

### **Witness fees**

**52** No person shall be obliged to attend or give evidence in any action, before any court, unless he is tendered his legal fees for such attendance and necessary travel. R.S., c. 94, s. 49.

### **Who may administer oath or affidavit in Nova Scotia**

**66** (1) An oath, affidavit, affirmation or declaration for use in the Province may be administered, sworn, affirmed or made within the Province before

- (a) a judge of any court;
- (b) a judge of the provincial court;
- (c) a prothonotary of the Supreme Court or a clerk of the county court;
- (d) a barrister of the Supreme Court;
- (e) a notary public for the Province;
- (f) a commissioner appointed under Section 5 of the *Notaries and Commissioners Act*;
- (g) any person authorized to take the oath, affidavit, affirmation or declaration by the enactment under which it is authorized or directed to be taken, or by any other enactment,

and the person before whom an affidavit, affirmation or declaration is sworn, affirmed or made shall designate his office below his signature to the jurat on the affidavit, affirmation or declaration.

**Proof of signature or official character**

(2) A document purporting to have the signature of any person referred to in subsection (1) subscribed on it in testimony of an oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, or for any other purpose authorized by this Act, shall be admitted in evidence without proof of his signature or of his official character. R.S., c. 94, s. 60.

**Who may administer oath outside Province**

**67** (1) Oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made out of the Province before some one of the following persons:

- (a) a commissioner authorized by the laws of the Province to take affidavits in and for any of the courts of the Province;
- (b) a commissioner authorized to administer oaths in the Supreme Court of Judicature in England or Ireland;
- (c) a judge of the Supreme Court of Judicature in England or Ireland;
- (d) a judge of the Court of Sessions or the Justiciary Court in Scotland;
- (e) a judge of any of the county courts of Great Britain or Ireland;
- (f) a judge of any court of record or of supreme jurisdiction in any colony or possession belonging to the Crown of Great Britain, or any dependency thereof or in any foreign country;
- (g) the mayor or chief magistrate of any city, borough or town corporate, in Great Britain or Ireland or in any colony of Her Majesty, or in any foreign country, and certified under the common seal of such city, borough or town corporate;
- (h) if made in the British possessions of India, any magistrate or collector certified to be such under the hand of the governor of any such possession;
- (i) if made in Quebec, a judge or prothonotary of the Superior Court, or clerk of the circuit court, a practicing lawyer or avocat or a notary;
- (j) an officer of any of Her Majesty's diplomatic or consular services exercising his functions in any country other than Canada, including an ambassador, envoy, minister, charge d'affaires, counsellor, secretary, attaché, consul general, consul, vice-consul, pro-consul, consular agent, acting consul-general, acting consul, acting vice-consul and acting consular agent;
- (k) an officer of the Canadian diplomatic, consular or representative services exercising his functions in any country other than Canada, including, in addition to the diplomatic and consular officers mentioned in clause (j), a high commissioner, permanent delegate, acting high commissioner, acting permanent delegate, counsellor and secretary;
- (l) a Canadian Government Trade Commissioner or an Assistant Canadian Government Trade Commissioner exercising his functions in any country other than Canada;
- (m) a notary public, and certified under his hand and official seal wherever made;
- (n) if made in a province of Canada, a person authorized by the laws of that province to take affidavits in and for any of the courts of that province;
- (o) an officer holding a commission in Her Majesty's Navy, Army or Air Force and being on active service in Canada or abroad,

shall, for the purposes of, and in or concerning any cause, matter or thing depending or to be had in any court in the Province, be as valid and effectual, and shall be of like force and effect to all intents and purposes as if such oath, affidavit, affirmation or declaration had been administered,

sworn, affirmed or made in the Province before a commissioner for taking affidavits therein, or other competent authority of the like nature.

**Proof of signature or seal or official character**

(2) Any document purporting to have affixed, impressed or subscribed thereon, or thereto,

- (a) the signature of any such commissioner;
- (b) the signature of such judge, and a seal of the court of which he is a member;
- (c) the seal of the corporation, and the signature of such mayor;
- (d) the signature of such chief magistrate or governor as aforesaid;
- (e) the official seal and signature of such prothonotary or notary public;
- (f) the signature of a person mentioned in clause (j), (k) or (l) of subsection (1) and his seal or the seal or stamp of his office or of the office to which he is attached; or
- (g) the signature of any such officer in Her Majesty's Navy, Army or Air Force,

in testimony of such oath, affidavit, affirmation or declaration, having been administered, sworn, affirmed or made by or before him, or for any other purpose authorized by this Act, shall be admitted in evidence without proof of his signature, or his signature and the seal or stamp, or of his official character. R.S., c. 94, s. 61; 1976, c. 16, s. 7; 1980, c. 30, s. 2.

**Expropriation Act**  
**CHAPTER 156**  
**OF THE**  
**REVISED STATUTES, 1989**  
**amended** 1992, c. 11, s. 36; 1995-96, c. 19

**Purpose of Act**

**2** (1) It is the intent and purpose of this Act that every person whose land is expropriated shall be compensated for such expropriation.

**Further purpose**

(2) Further, it is the intent and purpose of this Act that where a family home is expropriated the position of the owner in regards to compensation shall be such that he will be substantially in the same position after the expropriation as compared with his position before the expropriation.

**Interpretation of Act where family home**

(3) Recognizing that strict market value is not in all cases a true compensation for a family home that is expropriated since it may not provide equivalent accommodation to the owner of the family home, this Act shall be interpreted broadly in respect of the expropriation of a family home so that effect is given to the intent and purpose set forth in subsection (2).

**Exception to subsections (2) and (3)**

(4) The protection given by subsections (2) and (3) shall not extend to any person whose land is a money asset or investment and not a family home. R.S., c. 156, s. 2.

**Interpretation**

**3** (1) In this Act,

- (a) "appraisal report" is a written report which follows and would meet the requirements and standards adopted by The Appraisal Institute of Canada for such reports;
- (aa) "Board" means the Nova Scotia Utility and Review Board;
- (b) "Court" or "Supreme Court" means the Trial Division of the Supreme Court and

includes a judge thereof whether sitting in court or in chambers;

(c) "expropriate" means the taking of land without the consent of the owner by an expropriating authority in the exercise of its statutory powers but does not include a reservation under Section 13 of the *Public Highways Act* or a prescription under Section 16 of the *Water Act*;

(d) "expropriating authority" means Her Majesty in right of the Province and in all other cases any person or body empowered by statute to expropriate land;

(e) "expropriation documents" means those documents required to be deposited in the office of a registrar of deeds pursuant to Section 11;

(f) "family home" means the home which is the home of the owner held by him in fee simple or to which he holds the equity of redemption and is used by him for his family residence together, with the land immediately appurtenant thereto, not exceeding one and one-half acres, and any immediately appurtenant outbuildings;

(g) "former Expropriation Act" means Chapter 96 of the Revised Statutes, 1967;

(h) "injurious affection" means

(i) where a statutory authority acquires part of the land of an owner,

(A) the reduction in market value thereby caused to the remaining land of the owner by the acquisition or by the construction of the works thereon or by the use of the works thereon or any combination of them, and

(B) such personal and business damages, resulting from the construction or use, or both, of the works as the statutory authority would be liable for if the construction or use were not under the authority of a statute,

(ii) where the statutory authority does not acquire part of the land of an owner,

(A) such reduction in the market value of the land of the owner, and

(B) such personal and business damages, resulting from the construction and not the use of the works by the statutory authority, as the statutory authority would be liable for if the construction were not under the authority of a statute,

and for the purposes of subclause (i), part of the land of an owner shall be deemed to have been acquired where the owner from whom land is acquired retains land contiguous to that acquired or retains land of which the use is enhanced by unified ownership with that acquired;

(i) "land" includes any estate, term, easement, right or interest in, to, over or affecting land; (j) "owner" includes a mortgagee, tenant, registered judgment creditor, a person entitled to a limited estate or interest in land, a guardian or trustee of an incompetent person or of a person incapable of managing his affairs, and a guardian, executor, administrator or trustee in whom land is vested;

(k) "prescribed" means prescribed by the regulations made under this Act;

(l) "purchase-money mortgage" means a mortgage given by a purchaser of land to the vendor of the land or his nominee as security for the payment of all or part of the consideration for the sale;

(m) "registered judgment creditor" means a creditor who has obtained a judgment and registered it in accordance with the provisions of the *Registry Act*;

(n) "registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the registry of deeds office, and includes a

person shown as a tenant of land on the last revised assessment roll;

(o) "security holder" means a person who has an interest in land as security for the payment of money and includes a vendor under an agreement of purchase and sale;

(p) "statutory authority" means Her Majesty in right of the Province or any person or body empowered by statute to expropriate land or cause injurious affection;

(q) "tenant" includes a lessee or occupant occupying premises under any tenancy whether written, oral or implied.

### **Effecting service**

(2) Any document required by this Act to be served may be served personally or by registered mail addressed to the person to be served at his last known address, or, if that person or his address is unknown, by publication once a week for three weeks in a newspaper having general circulation in the locality in which the land concerned is situate and service shall be deemed to be made,

(a) in the case of service by registered mail, on the fifth day after the day of mailing; and

(b) in the case of service by publication, on the date of the third publication. R.S., c. 156, s. 3; 1992, c. 11, s. 36; 1995-96, c. 19, s. 1.

### **Application of Act**

**4** (1) Notwithstanding any general or special Act, where land is expropriated or injurious affection is caused by a statutory authority, this Act applies.

### **Expropriation provision in other Act**

(2) The provisions of any general or special Act providing procedures with respect to the expropriation of land or the compensation payable for land expropriated or for injurious affection shall be deemed to refer to this Act and not to the Act in question.

### **Conflict**

(3) Where there is conflict between a provision of this Act and provisions of any other general or special Act, the provision of this Act prevails. R.S., c. 156, s. 4.

### **Act binds Crown**

**5** This Act binds Her Majesty in right of the Province. R.S., c. 156, s. 5.

## PART II EXPROPRIATION

### **Expropriation by statutory authority**

**6** Where a statutory authority desires to expropriate land, it shall be expropriated in accordance with the provisions of this Part but only for the purposes authorized by its statute and to the extent set forth therein. R.S., c. 156, s. 6.

### **Approval required**

**7** (1) Notwithstanding Section 6, an expropriating authority shall not expropriate land without the approval of the approving authority.

### **Void expropriation**

(2) Any expropriation of land without the approval of the approving authority shall be null and void.

### **New expropriation where expropriation void**

(3) Notwithstanding subsection (2), nothing herein contained prevents an expropriating authority from expropriating anew land forming part of an expropriation that is null and void so long as

the new expropriation is in accord with this Act.

### **Regulations respecting approval**

(4) The Governor in Council may make regulations concerning the requirements of approval by the approving authority and the documents necessary to evidence the same. R.S., c. 156, s. 7.

### **"approving authority" defined**

**8** For the purposes of this Act, "approving authority" means

- (a) the Governor in Council in respect of land expropriated by
  - (i) Her Majesty in right of the Province,
  - (ii) the Nova Scotia Power Corporation,
  - (iii) Maritime Telegraph and Telephone Company Limited,
  - (iv) the Halifax-Dartmouth Bridge Commission;
- (b) the municipal council in respect of land expropriated by a municipality;
- (c) the town council in respect of land expropriated by a town;
- (d) the village commissioners in respect of land expropriated by a village;
- (e) the appropriate city council in respect of land expropriated by
  - (i) the City of Halifax,
  - (ii) the City of Dartmouth,
  - (iii) the City of Sydney;
- (f) the city council of Halifax in respect of land expropriated by the Halifax Water Commission;
- (g) the elected political body to which it is responsible in respect of land expropriated by any corporation, commission or body not coming within the above clauses, except that in the case of Her Majesty in right of the Province, the Governor in Council; and
- (h) any case not provided for herein, the Attorney General. R.S., c. 156, s. 8.

### **Expropriation by Crown**

**9** (1) Notwithstanding any special or general Act, where Her Majesty in right of the Province desires to expropriate land a request shall be made to the Governor in Council for approval of the expropriation by the appropriate Minister or person requesting the same and, upon approval by the Governor in Council, the Attorney General shall be the expropriating authority.

### **Regulations respecting request under subsection (1)**

(2) The Governor in Council may make regulations setting forth the nature, type and amount of information required to consider a request for expropriation under subsection (1). R.S., c. 156, s. 9.

### **Power of Crown to expropriate**

**10** (1) Her Majesty in right of the Province may expropriate land

- (a) for any purpose for which a Minister or the Governor in Council is authorized under a specific Act or the former Expropriation Act to expropriate lands;
- (b) to implement or carry out or effect an agreement entered into between the Province and the Government of Canada or a city, town or municipality or any combination thereof if the agreement is financed from public funds;
- (c) for any public work;
- (d) for any purpose that is a public purpose.

### **"public work" defined**

(2) For the purpose of this Section, "public work" includes highways, roads and bridges, public buildings, and all other works and property, whether or not of the kind hereinbefore mentioned, belonging to the Province, and also all other works and property acquired, constructed, extended,

enlarged, repaired, equipped or improved at the expense of the Province or for the acquisition, construction, repair, extension, enlargement or improvement of which any public money is appropriated by the Legislature, and every work required for any such purpose but not any work for which money is appropriated as a subsidy only. R.S., c. 156, s. 10.

### **Expropriation document**

**11** (1) Where a statutory authority has authority to expropriate land and it is desired to expropriate the same, the expropriating authority shall deposit at the office of the registrar of deeds for the registration district in which the land is located a document or documents setting forth

- (a) a description of the land;
- (b) a plan of the land;
- (c) the nature of the interest intended to be expropriated and whether such interest is intended to be subject to any existing interest in the land;
- (d) the statutory purpose for which the land is expropriated; and
- (e) a certificate of approval executed by the approving authority or a true copy thereof.

### **Effect of deposit**

- (2) Upon the documents being deposited at the office of the appropriate registrar of deeds
- (a) the land expropriated becomes and is absolutely vested in the expropriating authority; and
  - (b) any other right, estate or interest is as against the expropriating authority, or any person claiming through or under the expropriating authority, thereby lost to the extent that such right, estate or interest is inconsistent with the interest expropriated.

### **Error in document**

(3) In the case of an omission, misstatement or erroneous description in an expropriation document deposited under this Section, the expropriating authority may deposit in the proper registry of deeds office a document replacing or amending the original document and signed by the expropriating authority, and a document registered under this subsection shall be marked to show the nature of the replacement or amendment and shall have the same force and effect as, and shall be in substitution for, the original document to the extent that such document is replaced or amended thereby.

### **Proof of signature**

(4) Where a document purports to have been signed by an expropriating authority under this Section, it shall be presumed to have been signed by the expropriating authority without proof of the signature or official character of the person appearing to have signed it, unless otherwise directed by a court or the Board.

### **Information from owner**

(5) At any time after the expropriating authority deposits the expropriation documents in accordance with subsection (1), it may in writing request the owner to provide it with all information of which the owner has knowledge relating to any interest in the land expropriated and if the owner does not provide such information within thirty days after the written request then the period for serving documents and offering compensation under Sections 13 and 15 shall be increased by one day for each two days delay on the part of the owner without affecting the provisions contained in Section 13 for entering into possession.

### **Regulations respecting request under subsection (5)**

(6) The Governor in Council may make regulations as to the form and the contents of the written

request referred to in subsection (5).

### **Land immediately required in public interest**

(7) Notwithstanding Sections 13, 14 and 15, where the Attorney General is of the opinion that the physical possession or use of any land expropriated by an expropriating authority, including himself, is immediately required in the public interest, he may by order authorize the expropriating authority, including himself, to take physical possession of the land expropriated or to use the land to the extent specified in the order and as of the date specified in the order. R.S., c. 156, s. 11.

### **Agreement with owner**

**12** A statutory authority has the authority to make and form an agreement with an owner in respect of any claim of the owner under this Act, including any costs of the owner. R.S., c. 156, s. 12.

### **"registered owner" defined**

**13** (1) In this Section, "registered owner" means a known registered owner.

### **Offer to registered owner if no agreement**

(2) Where no agreement as to compensation has been made with the owner, the expropriating authority shall, within ninety days after the deposit of the expropriation document under Section 11 and before taking possession of the land, serve upon the registered owner

- (a) a true copy of the expropriation documents;
- (b) an offer of an amount in full compensation for his interest; and
- (c) where the registered owner is not a tenant, a statement of the total compensation being offered for all interests in the land,

excepting compensation for business loss for which the determination is postponed under subsection (1) of Section 29.

### **Service of offer on unknown registered owner**

**14** (1) Where the registered owner is unknown or his address is unknown, the expropriating authority shall, within ninety days after the deposit of the expropriation document under Section 11, serve the registered owner by publication as provided for in subsection (2) of Section 3 and may take possession of the land immediately upon the third publication of the notice in the newspaper.

### **Content of publication**

(2) For the purposes of subsection (1), only the description of the land and the purpose for which it is expropriated and the name of the expropriating authority need be published. R.S., c. 156, s. 14.

### **Possession of land after offer served**

**18** (1) Where land that has been expropriated is vested in an expropriating authority and the expropriating authority has served the registered owner with an offer in accordance with Section 13, the expropriating authority, subject to any agreement to the contrary and if no application is made under subsection (4) of Section 13, shall take possession of the land on the date specified in the notice.

### **Minimum period before possession**

(2) Subject to subsection (4) of Section 13, the date for possession shall be at least three months after the date of the serving of the offer required by Section 13. R.S., c. 156, s. 18.

### **Abandonment of expropriated land**

**20** (1) Where, at any time before the compensation has been paid in full in satisfaction of proceedings taken under this Act, land expropriated under the provisions of this Act, or any part

of such land, is found to be unnecessary for the purpose for which the same was expropriated, or if it is found that a more limited estate or interest therein only is required, the expropriating authority may, by writing under proper execution by its duly authorized officers, registered in the proper registry office, declare that the land or such part thereof is not required and is abandoned by the expropriating authority, or that it is intended to retain only such limited estate or interest as is mentioned in such writing, and thereupon

(a) the land declared to be abandoned shall revert in the person from whom it was taken or in those entitled to claim under him; or

(b) in the event of a limited estate or interest therein being retained by the expropriating authority, the land shall so revert subject to the estate or interest so retained.

### **Compensation where partial abandonment**

(2) Where part only of the land or all of it but a limited estate or interest therein is abandoned, the fact of such abandonment and the damage, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case, shall be taken into account in determining the amount to be paid to any person claiming compensation.

### **Damages where complete abandonment**

(3) Where the whole of the land taken is abandoned, the person from whom it was taken shall be entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and the amount of the damages shall be determined in the manner provided by this Act, and if a reference as to compensation is pending, shall be determined on such reference. R.S., c. 156, s. 20.

### **Duty of registrar of deeds**

**21** Notwithstanding the provisions of the *Registry Act*, every registrar of deeds shall receive and permanently preserve in his office such expropriation documents as the expropriating authority causes to be deposited under this Act, and shall endorse thereon the day, hour and minute when the same were received by him as the time of registration and make such entries in his records as will make their registration a public record. R.S., c. 156, s. 21.

### **Filing procedure deemed followed**

**22** In all cases, when expropriation documents purporting to be signed by the expropriating authority are deposited in the office of the registrar of deeds, the same shall be deemed to have been so deposited by the direction and authority of the expropriating authority and the formality and procedure relating to the filing of the documents to have been followed. R.S., c. 156, s. 22.

### **Alienation of land acquired under Act**

**67** (1) Any land acquired under this Act for any purpose for which a statutory authority is authorized to acquire the same may be granted, sold, leased, transferred or otherwise disposed of by the statutory authority upon such terms and subject to such conditions as will assure, in the opinion of the statutory authority, the carrying out of the purposes for which the land was acquired and subject to any statutory provision governing the disposition of land by the statutory authority.

### **Alienation of unrequited land**

(2) Any land referred to in subsection (1) when not required by a statutory authority may be disposed of by that statutory authority as if acquired by purchase. R.S., c. 156, s. 67.

### **Power of minister to acquire land**

**75** A minister may, for and in the name of Her Majesty in right of the Province, purchase or acquire any land which he may deem necessary

- (a) for any purpose for which a minister is authorized under a specific Act or the former Expropriation Act to purchase and acquire any land;
- (b) to implement or carry out or effect an agreement entered into between the Province and the Government of Canada or a city, town or municipality or any combination thereof if the agreement is financed from public funds;
- (c) for any public work;
- (d) for any purpose that is a public purpose. R.S., c. 156, s. 75.

#### **Land surveyor**

**76** (1) A minister may employ a Nova Scotia Land Surveyor or engineer to make any survey or establish any boundary and furnish the plans and descriptions of any property acquired or to be acquired by Her Majesty for any of the purposes authorized by this Act.

#### **Method of establishing boundary**

(2) The boundaries of such properties may be permanently established by means of proper stone or iron monuments planted by the surveyor or engineer. R.S., c. 156, s. 76.

#### **Deposit of plan**

**77** Where land appropriated for a public work is Crown land, under the control of the Government of the Province, a plan of such land shall be deposited with the Department of Lands and Forests. R.S., c. 156, s. 77.

#### **Property acquired for public purpose**

**80** All lands, streams, watercourses and property acquired under this Act or otherwise by the Crown for any public work and purpose shall be vested in the Crown and, when not required for the public work or purpose may be sold, leased or otherwise disposed of under the authority of the Governor in Council. R.S., c. 156, s. 80.

#### **Alienation of land acquired by Crown**

**81** Any land acquired under this Act for any of the purposes set out in Section 10 or 75 may be granted, sold, leased, transferred or otherwise disposed of by the Governor in Council upon such terms and subject to such conditions as will assure, in the opinion of the Governor in Council, the carrying out of the purposes for which the land was acquired. R.S., c. 156, s. 81.

## PART VIII TRANSITIONAL

#### **Documents filed after 1970**

**82** (1) Notwithstanding the former *Expropriation Procedure Act* and the former Expropriation Act, and any other general or private Act, where subsequent to the thirty-first day of December, 1970, a plan and description of land have been filed at the office of the registrar of deeds for the registration district in which the land is located, or the procedure under that Act equivalent to such filing by an expropriating authority has been followed, and no compensation settlement has been made for the land expropriated before the twentieth day of June, 1974, the land shown in the plan and described in the description is vested in the statutory authority and the said expropriating authority shall be deemed to have complied with Section 11 of this Act as of the twentieth day of June, 1974, and Sections 12 to 68 of this Act apply *mutatis mutandis* to that expropriation except that if the expropriating authority is in possession immediately before the twentieth day of June, 1974, service of the documents and the making of offers of compensation required by this Act prior to possession shall not affect that possession.

**Expropriation prior to 1971**

(2) Expropriations prior to the first day of January, 1971, shall be governed by the law in effect at the time of such expropriations.

**Expropriation after 1970**

(3) Expropriations subsequent to the thirty-first day of December, 1970, shall be governed by the law in effect at the time of such expropriations except to the extent and in those cases where subsection (1) applies.

**Application of Act**

(4) This Act applies to land expropriated on or after the twentieth day of June, 1974.

**Substituted reference**

(5) A reference in any Act other than this Act to the "Expropriation Act" or the *Expropriation Procedure Act* or the procedure under either or both of those Acts shall mean and shall be construed to mean a reference to this Act.

**Existing expropriation powers preserved**

(6) Nothing herein contained shall mean or be construed to mean that the power of a statutory authority to expropriate land is revoked or changed except that in the case of Her Majesty in right of the Province, the execution of expropriation documents shall be under the signature of the Attorney General rather than the minister named or designated in the appropriate Act. R.S., c. 156, s. 82.

## **Fair Registration Practices Act**

### **CHAPTER 38 OF THE ACTS OF 2008**

1 This Act may be cited as the Fair Registration Practices Act.

2 In this Act,

(a) "internal review" means a rehearing, reconsideration, review or appeal or other process provided by a regulating body in respect of the merits of a registration decision, regardless of the terminology used to describe the process;

(b) "internal review decision" means a decision in an internal review;

(c) "Minister" means the Minister of Labour and Workforce Development;

(d) "personal information" has the same meaning as in the Freedom of Information and Protection of Privacy Act;

(e) "record" has the same meaning as in the Freedom of Information and Protection of Privacy Act ;

(f) "registration" means the end result of a process by which an applicant seeks authority to

(i) engage in the practice of an occupation governed by a regulating body, whether such practice is independent, conditional or under supervision, or

(ii) use a designation or certification granted by a regulating body,

but does not include periodic renewals;

(g) "registration decision" means, irrespective of the terminology used by a regulating body, a decision to grant registration to an applicant or not grant registration to an applicant;

(h) "registration practices" means the administrative steps taken by a regulating body to process an application for registration, but does not include the standards and objective requirements set by a regulating body to assess the qualifications of individuals applying for registration;

(i) "regulating body" means a body listed in Schedule A to this Act or a person listed in Schedule B to this Act;

(j) "regulations" means the regulations made under this Act unless the context indicates otherwise;

(k) "third-party assessor" means a body external to a regulating body relied on by the regulating body to assess the equivalence of the qualifications of an applicant for registration.

3 This Act recognizes the commitments the Government of the Province has made under the Agreement on Internal Trade between the Government of Canada and the governments of all the provinces of Canada that came into force on July 1, 1995, to facilitate the free movement of persons, goods, service and investments throughout Canada, as implemented by the Province under the Internal Trade Agreement Implementation Act.

4 The Minister is responsible for the administration of this Act.

#### FAIR REGISTRATION PRACTICES CODE

5 This Section and Sections 6 to 12 may be referred to as the Fair Registration Practices Code.

6 A regulating body has a duty to carry out registration practices that are transparent, objective, impartial and procedurally fair.

7 A regulating body shall provide information in a clear and understandable form to individuals, including individuals who received their qualifications outside of Canada, applying or intending to apply for registration by the regulating body , and shall provide

- (a) information about its registration practices and internal review processes;
- (b) information about the length of time that the registration process for that regulating body usually takes;
- (c) the requirements for registration by the regulating body;
- (d) a description of the criteria used to assess whether the requirements for registration have been met;
- (e) information about any support the regulating body provides to applicants during the registration process; and
- (f) information setting out any fees for registrations.

8 A regulating body shall

- (a) respond to inquiries from applicants for registration within a reasonable time;
- (b) where registration is granted, provide written confirmation within a reasonable time to applicants;
- (c) where registration is not granted, provide written decisions that include reasons to applicants within a reasonable time respecting registration decisions; and
- (d) provide, where practical, information respecting measures or programs that may be available to assist unsuccessful applicants in obtaining registration at a later date.

9 A regulating body shall

- (a) make information publicly available on what documentation of qualifications must accompany an application; and

(b) where documentation cannot be obtained by an applicant for reasons beyond the applicant's control, advise the applicant what alternative information may be supplied by the applicant that may be acceptable to the regulating body.

10 (1) Where a regulating body does not grant registration to an applicant, the regulating body shall provide an internal review process within a reasonable time and shall inform the applicant of the internal review process and of the procedures and time frames for the internal review.

(2) A regulating body shall provide an applicant for registration an opportunity to provide new information and to make submissions with respect to an internal review in such manner as determined by the internal review decision-maker.

(3) An internal review decision-maker shall provide an applicant with a written decision that includes reasons within a reasonable time.

(4) A regulating body may specify how submissions in respect of an internal review are to be submitted.

(5) No one who acted as a decision-maker in respect of a registration decision may act as a decision-maker in an internal review in respect of that registration decision.

11 A regulating body shall ensure that individuals acting as decision-makers in internal reviews receive training on conducting an internal review.

12 (1) Upon the written request of an applicant for registration by a regulating body, the regulating body shall provide the applicant with access to records held by it that are related to the application.

(2) Notwithstanding subsection (1), a regulating body may refuse access to a record if

(a) the record or any information in the record is subject to a legal privilege that restricts disclosure of the record or the information, as the case may be;

(b) another enactment, including an Act of the Parliament of Canada or a regulation made pursuant to such an Act, or a court order or order of a quasi-judicial tribunal prohibits disclosure of the record or any information in the record in the circumstances;

(c) granting the access could reasonably be expected to lead to the identification of a person who provided information in the record to the regulating body explicitly or implicitly in confidence, and the regulating body considers it appropriate in the circumstances that the identity of the person be kept confidential;

(d) granting the access could reasonably be expected to threaten or harm the mental or physical health or the safety of another person; or

(e) granting the access could negatively affect public safety or could undermine the integrity of the registration process.

(3) Notwithstanding subsection (2), an applicant has a right of access to that part of a record that can reasonably be severed from the part to which the applicant does not have a right of access by reason of that subsection.

(4) A regulating body shall establish a process under which requests for access to records will be considered.

(5) A regulating body may charge an applicant a fee for making records available , which fee must not exceed the amount of reasonable cost recovery.

#### REVIEW OFFICER

13 A Review Officer and any other employees required for administration of this Act shall be appointed pursuant to the Civil Service Act.

14 (1) The Review Officer shall carry out the powers and duties assigned to the Review Officer under this Act and the regulations, including

(a) the provision of information and advice to regulating bodies to assist them in meeting their obligations under this Act and the regulations, including establishing guidelines to assist regulating bodies in preparing reports;

(2) The Review Officer, with respect to the registration practices of a regulating body, may

(a) recommend to a regulating body that legislation be made, amended or revoked or that it make, amend or revoke regulations that the regulating body has the authority to make, amend or revoke under an Act that governs the regulating body; and

(b) recommend to a minister of the Crown responsible for the regulating body that the minister exercise any power that the minister has to request or require the regulating body to make, amend or revoke legislation or regulations.

(3) Where a report is made under clause (1)(f), a copy of the report shall be provided to the regulating body to which the report relates by the Review Officer.

(4) In exercising the obligations under this Act or the regulations, the Review Officer shall not request or accept personal information.

(5) The Review Officer shall not become involved in a registration decision or an internal review decision on behalf of an applicant or potential applicant for registration.

16 (1) In this Section, "reporting period" means the period of time under subsection (8).

(2) Every regulating body shall review its registration practices in accordance with this Section and shall file a report on the results of the review with the Review Officer for the reporting period.

(3) The report required under subsection (2) must include all of the following information respecting the registration practices of the regulating body:

(a) requirements for registration;

(b) an explanation of how the requirements for registration are to be met;

(c) acceptable alternative information to be provided by an applicant who cannot obtain documentation of qualifications for reasons beyond the applicant's control;

(d) the fees charged for registration;

(e) copies of blank application forms for registration;

(f) the number of completed applications received and the number approved or rejected;

(g) how the requirements for registration are made available to potential applicants;

(h) a description of existing accommodation practices for applicants with a physical disability or mental disability;

(i) an outline of the role of third-party assessors;

(j) a description of the process under which requests for access to records are considered;

(k) information about any support the regulating body provides to applicants during the registration process;

(l) information about the length of time, commencing from the date of receipt of a completed application, that the registration practices for that regulating body usually take;

(m) a description of the internal review process available to applicants who are not granted registration, including opportunities provided to an applicant to make submissions respecting such review;

(n) a statement that no one who acted as a decision-maker in respect of a registration decision acted as a decision-maker in an internal review;

(o) the number of internal reviews carried out in the reporting period and the time lines for making the those decisions on those reviews;

(p) a description of the training provided to individuals who make internal review decisions; and

(q) all of the following information concerning individuals qualified outside of the Province:

(i) the number of applicants who received their qualifications outside of the Province but within Canada and a listing of the provinces of Canada where such qualifications were obtained,

(ii) the number of applicants who received their qualifications outside of Canada and a listing of the countries where such qualifications were obtained, and

(iii) the number of applicants identified in subclauses (i) and (ii) accepted and rejected for registration during the reporting period.

20 (1) A regulating body that

(a) fails to file a report required under Section 16;

(b) furnishes false or misleading information in the report required by Section 16 or other report or record filed with the Review Officer under this Act or otherwise provides false or misleading information to the Review Officer;

(c) fails to comply with an order made by the Review Officer under this Act;

(d) obstructs the Review Officer or a person employed by the Review Officer in exercising powers or performing duties under this Act; or

(e) contravenes subsection (2),

is guilty of an offence.

(2) No regulating body shall intimidate, coerce, penalize or discriminate against another person because that person

(a) has co-operated or may co-operate with the Review Officer or person employed by the Review Officer in exercising powers or performing duties under this Act; or

(b) has provided, or may provide, records or other information in the course of an activity or proceeding under this Act.

(3) Every regulating body that is guilty of an offence under this Section is liable on summary conviction to a fine of not more than ten thousand dollars.

## **Land Actions Venue Act**

CHAPTER 247

OF THE

REVISED STATUTES, 1989

**amended** 1996, c. 23, ss. 14, 15

### **Venue of action relating to land**

**2** All actions for trespass to lands or in which possession or recovery of lands is sought, and all actions in which the title to lands is in issue, shall, unless the court or a judge otherwise orders, be tried in the justice centre area in which the lands lie, and if the lands lie in more than one justice centre area, then in any of the justice centre areas in which any part of the lands lie. R.S., c. 247, s. 2; 1996, c. 23, s. 15.

## Land Registration Act

### CHAPTER 6 OF THE ACTS OF 2001

as amended by

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2002, c. 19; 2003, c. 7, s. 4; 2004, c. 38; 2006, c. 15, ss. 9, 10;  
2008, c. 19; 2009, c. 10, s. 30; 2011, c. 20; 2014, c. 35, s. 24

#### Short title

**1** This Act may be cited as the Land Registration Act. 2001, c. 6, s. 1.

#### Purpose of Act

**2** The of this Act is to

- (a) provide certainty in ownership of interests in land;
- (b) simplify proof of ownership of interests in land;
- (c) facilitate the economic and efficient execution of transactions affecting interests in land; and
- (d) provide compensation for persons who sustain loss in accordance with 2001this Act., c. 6, s. 2; 2008, c. 19, s. 1.

#### Interpretation

**3** (1) In this Act,

- (a) “cancellation” means the administrative process by which the prospective effects of recording and registration are eliminated;
- (aa) “certificate of legal effect” means a certificate prepared and submitted by a qualified lawyer setting out the legal effect of a document in the manner prescribed in the regulations made by the Minister;
- (b) “court” means the Supreme Court of Nova Scotia;
- (c) “document” means a writing, a plan, a map or any information in a form that can be converted into a writing, a plan or a map by a machine or a device, and includes information
  - (i) on microfilm,
  - (ii) in electronic, mechanical or magnetic storage,or
  - (iii) in electronic data signals;

- (d) “holder” or “interest holder” includes a recorded assignee of the interest holder and an agent empowered to act for the interest holder;
- (e) “injurious affection” has the same meaning as in the Expropriation Act;
- (f) “instrument” means every document by which the title to land is changed or affected in any way;
- (g) “interest” means any estate or right in, over or under land recognized under law, a prescribed contract or a prescribed statutory designation, including a right or interest under the Canada Nova Scotia Offshore Petroleum Resources Accord (Nova Scotia) Implementation Act, but excludes any interest under the Gas Storage Exploration Act, the Mineral Resources Act, the Petroleum Resources Act or the Treasure Trove Act;
- (h) “law” means the law in force in the Province, including enactments and principles of common law and equity;
- (i) “lien” means an interest created by operation of law that secures the payment or other performance of an obligation;
- (j) “Minister” means the Minister of Service Nova Scotia and Municipal Relations;
- (k) “overriding interest” means an interest referred to in subsection 73(1);
- (l) “owner” includes an agent empowered to act for an owner;
- (m) “parcel” means an area of land that may be owned in fee simple absolute, but does not mean a structure, building or part thereof unless the structure, building or part thereof is a unit as defined by the Condominium Act;
- (n) “parcel identification number” means the unique identification number assigned to a parcel;
- (na) “parcel registered pursuant to this Act” means a parcel for which an application for registration of title pursuant to Section  
has been accepted by a registrar;
- (o) “person” includes an agent empowered to act for a person;
- (p) “prescribed” means prescribed by the regulations;
- (pa) “proceeding” means an action or application;
- (q) “qualified lawyer” means a member of the Nova Scotia Barristers’ Society entitled to practise law, but does not include a member who is subject to any limitation or restriction on practice imposed pursuant to the Legal Profession Act that precludes the member from certifying title to land;
- (r) “record” means to secure priority of enforcement for an interest by means of entries in a register pursuant to this Act;

- (s) “recordable” means capable of being recorded pursuant to this Act;
- (t) “register” or “parcel register” means the register established pursuant to this Act for a parcel of lands and includes any document incorporated into the register by reference;
- (u) “registered owner” means the person shown in a register as the owner of a registered interest;
- (v) “registrable” means capable of being registered pursuant to this Act;
- (w) “registration” means to affect, confer or terminate registered interests by means of entries in a register pursuant to this Act,  
and includes a revision of a registration;
- (x) “registration district” means a registration district established by the Governor in Council pursuant to this Act;
- (y) “security interest” means a consensual interest recognized by law that secures the payment of an obligation;
- (z) “service” includes regular mail, except as otherwise provided in this Act;
- (aa) “servitude” means an interest affecting the use or enjoyment of land created by covenant, condition, easement or implication at law, and includes a utility interest, but does not include a lien or a security interest;
- (ab) “subdivision” has the same meaning as in the Municipal Government Act;
- (ac) “successor” means a person who acquires an interest, or an interest derived from that interest, directly or through intermediate transactions, from a prior owner of the interest;
- (ad) “transaction” means an event or a dealing affecting an interest;
- (ae) “utility interest” means an easement or other right in or to use land, in existence before the coming into force of this Act, in favour of a public utility or a municipality, and includes a fee simple interest in land owned by a public utility or a municipality before the coming into force of this Act;
- (af) “wrongful act” does not include an act or omission that is only careless or negligent.
- (2) In an enactment, in reference to a parcel registered pursuant to this Act,
- (a) “registered”, “recorded”, “deposited” and “filed” mean registered or recorded, as the case may be, pursuant to this Act;
- (b) “registrar of deeds” means a registrar appointed pursuant to this Act;
- (c) “registration district” means a registration district pursuant to this Act;
- (d) “registry of deeds” or “office of the registrar of deeds” means a land registration office established pursuant to this Act.

## **Interpretation**

4 (1) In this Act, the meaning of “fraud” is subject to this Section.

(2) For the purpose of this Act, the equitable doctrines of “notice” and “constructive notice” are abolished for the purpose of determining whether conduct is fraudulent.

(3) A person who engages in a transaction with the registered owner of an interest that is subject to an interest that is not registered or recorded at the time of the transaction, other than an overriding interest, in the absence of actual knowledge of the interest that is not registered or recorded

(a) may assume without inquiry that the transaction is authorized by the owner of any interest that is not registered or recorded;

(b) may assume without inquiry that the transaction will not prejudice that interest; and

c) has no duty to ensure the proper application of any assets paid or delivered to the registered owner of the interest that is the subject of the transaction.

(4) A person obtains an interest through fraud if that person, at the time of the transaction,

(a) had actual knowledge of an interest that was not registered or recorded;

(b) had actual knowledge that the transaction was not authorized by the owner of the interest that was not registered or recorded; and

(c) knew or ought to have known that the transaction would prejudice the interest that was not registered or recorded.

(5) A person does not obtain an interest through fraud if the interest that was not registered or recorded was not enforceable against the person who transferred the interest. 2001, c. 6, s. 4. 5 repealed 2008, c. 19, s. 3.

## **Land registration districts**

7 (1) The Governor in Council shall establish one or more land registration districts in the Province for the purpose of this Act.

(2) For greater certainty, the Governor in Council may establish additional land registration districts, divide or combine land registration districts and change the boundaries of land registration districts from time to time.

(3) The Minister shall establish and maintain a land registration office in each location prescribed by the Governor in Council.

(4) A land registration office may be combined with a registry of deeds established pursuant to the Registry Act. 2001, c. 6, s. 7; 2011, c. 20, s. 1.

### **Registrar General**

**8** (1) The Minister shall, in accordance with the Civil Service Act, appoint a person to be the Registrar General.

(2) The Registrar General is a member of the public service.

(3) The Registrar General shall

(a) supervise and direct the operation of the land registration offices and the land registration system established pursuant to this Act;

### **Parcel registers**

**11** (1) A parcel register shall be established for each parcel that is registered pursuant to this Act.

(2) Where an instrument that results in the subdivision of land is accepted for registration, a new parcel register shall be established for each parcel created or affected by the subdivision. 2008, c. 19, s. 5.

### **Utility rolls**

**12** (1) A registrar may establish a utility roll for easements or other rights to use land owned by a utility or a municipality that affect more than ten parcels and are all of the same general effect.

(2) An instrument creating, charging or transferring easements or other rights to use land owned by a utility or municipality may be registered or recorded in a utility roll in lieu of being registered or recorded in each parcel register.

(3) Where a utility roll is established, the utility roll shall be noted in the registers of all the parcels subject to the interests in the utility roll. 2001, c. 6, s. 12; 2002, c. 19, s. 4.

### **Contents of parcel register**

**13** (1) A parcel register shall contain the information prescribed in regulations made by the Minister.

(1A) A parcel register may include such additional information as the Registrar General considers expedient.

(2) A unique document identifier shall be assigned to each document entered in a register.

(3) A reference in a register to a registered or recorded document by its identifier incorporates that document in the register.

(4) An entry in a register is part of the register whether or not it was made under proper authority.

(5) On subdivision, all interests and qualifications in the parcel register of the parcel to be subdivided shall be placed in the parcel register for each parcel created on subdivision and shall

be removed only in accordance with the regulations. 2001, c. 6, s. 13; 2002, c. 19, s. 5; 2004, c. 38, s. 4; 2008, c. 19, s. 6.

### **Immunity from liability**

**16** The Registrar General is not liable for the accuracy of any information in a register unless specifically provided in this Act or the regulations. 2001, c. 6, s. 16.

### **Registrable interests**

**17** (1) The following interests may be registered:

- (a) a fee simple estate;
- (b) a life estate and the remainder interests; and
- (c) an interest of Her Majesty.

(2) Where another enactment requires the registration of an interest, and the interest is not registrable pursuant to subsection (1), the interest shall be recorded.

(3) Where another enactment authorizes the registration of an interest, and the interest is not registrable pursuant to subsection (1), the interest may be recorded. 2001, c. 6, s. 17.

### **Registration requirements**

**18** (1) A document submitted for registration, other than a plan of subdivision or a notice of subdivision, shall be accompanied by a certificate of legal effect certifying the legal effect of the document.

(2) Where prescribed in the regulations, a document submitted for recording shall be accompanied by a certificate of legal effect certifying the legal effect of the document.

(3) A registrar is entitled to rely upon a certificate of legal effect and such other information as prescribed in the regulations.

(4) The qualified lawyer who signed the certificate of legal effect is liable to the Registrar General with respect to any negligent error or omission in the certificate of legal effect if the Registrar General has been required to pay compensation pursuant to this Act as a result of the negligent error or omission in the certificate within ten years after the date of the certificate.

(5) Liability under subsection (4) may be enforced by the Registrar General joining the qualified lawyer in an action brought against the Registrar General for compensation. 2008, c. 19, s. 9.

### **Legal description of parcel**

**19** Where a document is submitted for registration or recording pursuant to this Act, the legal description for the parcel shall be referred to in the manner prescribed in the regulations. 2008, c. 19, s.10.

**Registered interests**

**20** A parcel register is a complete statement of all interests affecting the parcel, as are required to be shown in the qualified lawyer's opinion of title pursuant to Section 37, subject to any subsequent qualifications, revisions of registrations, recordings or cancellation of recordings in accordance with this Act. 2008, c. 19, s. 11.

**Location and boundaries**

**21** (1) The legal description of a parcel in a register is not conclusive as to the location, boundaries or extent of the parcel.

(2) Provincial mapping is not conclusive as to the location, boundaries or extent of a parcel.

(3) A registration may not be rejected only because the location, boundaries or extent of the parcel appear to overlap the location, boundaries or extent of another parcel.

(4) repealed 2004, c. 38, s. 7. 2001, c. 6, s. 21; 2004, c. 38, ss. 7, 26.

**Subdivisions**

**23** (1) A registrar shall not accept for registration or recording a plan of subdivision, instrument of subdivision or notice of subdivision with respect to a parcel that is not registered pursuant to this Act.

(2) Where a plan of subdivision, instrument of subdivision or notice of subdivision that results in the consolidation of lands is submitted for registration, a registrar shall not accept the document unless the parcel from which any land is taken and the parcel to which any land is added are registered pursuant to this Act.

(3) A registrar shall not accept for registration a deed to a parcel that has been approved for consolidation with another parcel unless the deed contains a legal description of the consolidated parcel and the parcel from which any land is taken and the parcel to which any land is added are both registered pursuant to this Act. 2008, c. 19, s. 12.

**Expropriations**

**29** A registrar shall accept an instrument evidencing an expropriation of a parcel or part thereof identified by the applicant pursuant to an enactment of Canada or the Province as a direction to revise a registration as to the ownership of the registered interest expropriated and shall register the instrument. 2001, c. 6, s. 29.

**Corrections and amendments to register**

**33** (1) The Registrar General may correct errors and omissions in a parcel register in the circumstances and in the manner prescribed in regulations made by the Minister.

(2) The Registrar General may amend any information in a register to bring a parcel register into conformity with regulations made by the Minister, as amended from time to time. 2008, c. 19, s. 15.

### **Request for correction**

**34** (1) A person who objects to and is aggrieved by a registration, a recording or other information contained in a parcel register may submit a request in writing to the Registrar General seeking correction of the registration, recording or information objected to.

(2) The Registrar General shall investigate the facts surrounding the person's request and may, after consideration of written or oral submissions,

(a) correct the registration, recording or information as requested in the circumstances and in the manner prescribed in regulations made by the Minister;

(b) deny the person's request in whole or in part; or

(c) direct the person to pursue a remedy available under this Act, including taking a proceeding under this Act, before continuing with the request. 2008, c. 19, s. 15.

### **Proceeding to correct registration**

**35** (1) A person who objects to and is aggrieved by a registration in a parcel register may commence a proceeding before the court requesting a declaration as to the rights of the parties, an order for correction of the registration and a determination of entitlement to compensation, if any.

### **Registration**

**37A** (1) A person seeking to register an interest in a parcel that is registered pursuant to this Act may apply to the registrar of the district in which the affected parcel is situated to have the interest registered pursuant to this Act if

(a) the person who acquired the interest has complied with Part V of the Municipal Government Act;

(b) the person from whom the interest is transferred is the owner of the interest;

(c) the interest is transferred by a document effective at law to transfer the interest or by operation of law;

(d) the document submitted to effect the registration of the interest is accompanied by a certificate of legal effect, if required by Section 18; and

(e) the document submitted to effect the registration of the interest includes the parcel identification number for the affected parcel.

- (2) An interest is registered when the identifier assigned to the document accepted for registration is entered in the register.
- (3) The date and time of registration of an interest is deemed to be the date and time when the document describing the interest was received and indexed by the registrar.
- (4) Where an interest has been registered pursuant to this Section, the registrar shall revise the register to show the new owner of the parcel. 2008, c. 19, s. 17.

#### **Land acquired by certificate of title**

- 41** (1) Where a person acquires title or confirmation of title to an interest in an unregistered parcel by the order of a court, a certificate of title pursuant to the Land Titles Clarification Act or the Quieting Titles Act or by an enactment, and a certified copy of the order, certificate or enactment is filed with the registrar, the registrar shall register the interest in the parcel upon payment of the prescribed fee.
- (2) Any plan of survey used pursuant to the Land Titles Clarification Act or the Quieting Titles Act shall be recorded along with the order, certificate or enactment referred to in subsection (1). 2001, c. 6, s. 41; 2002, c. 19, s. 18.

#### **Registration on initiative of Registrar General**

##### **42** Where the Registrar General

- (a) is satisfied that any parcel should be brought under the operation of this Act;
- (b) is satisfied that title to the parcel should be registered without a formal application and without complying with some or all of the requirements of this Act; and
- (c) has obtained such supporting information as the Registrar General considers necessary, the Registrar General may make an order directing a registrar to register the title to the parcel. 2001, c. 6, s. 42.

#### **Notice filed in registry of deeds**

- 43** (1) Where a parcel is first registered pursuant to this Act, the registrar shall cause notice of the registration to be filed in the registry of deeds for the registration district within which the parcel is situate pursuant to the Registry Act as a conveyance from the persons shown as the former owners in the application pursuant to which the parcel was first registered.
- (2) The notice shall show the person who appears from the lawyer's opinion to have been the owner immediately before registration pursuant to this Act as the grantor, and shall include the property identification number of the parcel and a copy of the legal description of it. 2001, c. 6, s. 43; 2002, c. 19, s. 19; 2004, c. 38, s. 26; 2008, c. 19, s. 36.

### **Effect of registration**

**44** (1) Where a parcel is registered pursuant to this Act, this Act applies to an interest in the parcel, notwithstanding the fact that the instrument evidencing the interest was previously registered pursuant to the Registry Act.

(2) An instrument registered pursuant to the Registry Act after a parcel is registered pursuant to this Act, is ineffective in relation to the parcel or an interest appearing in the parcel register. 2008, c. 19, s. 19.

### **Unregistered instruments ineffective**

**45** (1) Except as against the person making the instrument, no instrument, until registered or recorded pursuant to this Act, passes any estate or interest in a registered parcel or renders it liable as security for the payment of money.

(2) Subsection (1) does not apply to an instrument creating a leasehold interest not exceeding three years where there is actual occupation of all or part of the parcel under the instrument. 2001, c. 6, s. 45.

### **Restriction on certain registration**

**46** (1) A registrar of deeds shall not accept for recording pursuant to the Registry Act

(a) any transfer of an equitable or legal title of a fee simple estate, life estate or remainder interest that the affidavit filed pursuant to the Municipal Government Act discloses is made for a sale price or for value;

(b) a plan of subdivision, instrument of subdivision or notice of subdivision unless

(i) the subdivision results in the creation of fewer than three lots, including any remainder, or

(ii) the plan, instrument or notice is accompanied by an affidavit signed by each of the owners of the parcel to the effect that the sole purpose of the subdivision is to create lots to be gifted to a parent, spouse, brother, sister, child or grandchild of an owner;

### **Recording of interest**

**47** (1) An interest in any parcel that is subject to this Act may be recorded.

(2) An interest is recorded by recording the document on which the interest is based.

(3) The registrar shall, upon payment of the prescribed amount, accept for recording in a parcel register any document that may be recorded pursuant to this Act and that complies with the regulations and includes the parcel identification number of the parcel affected.

(4) Any person who has an overriding interest in a parcel may record that interest.

(4A) An interest pursuant to the Matrimonial Property Act may be recorded.

- (5) A plan of survey may be recorded.
- (6) Where a plan of survey shows more than one parcel the registrar may note the recording of the plan in the parcel register of every parcel identified on the plan by parcel identification number.
- (7) A notice of claim pursuant to the Marketable Titles Act is not registrable or recordable pursuant to this Act.
- (8) A recording that is not authorized by this Section is void.
- (9) A registrar shall not accept for recording any document that does not indicate the parcel identification number of the parcel affected. 2001, c. 6, s. 47; 2004, c. 38, s. 16.

### **Effect of condition and covenants**

**61** (1) Every successive owner of a parcel is affected with notice of a condition or covenant included in an instrument registered or recorded with respect to that land and is bound thereby if it is of such nature as to run with the land, but a condition or covenant may be modified or discharged by order of the court on proof to the satisfaction of the court that

(2) A registered owner may create, by grant or otherwise, a right of way, restrictive covenant or easement for the benefit of the registered owner and that right-of-way, restrictive covenant or easement may be recorded pursuant to this Act.

(3) Where dominant and servient tenement parcels are registered in the name of the same person, a right of way, restrictive covenant or easement referred to in subsection (2) is not merged by reason of the common ownership. 2001, c. 6, s. 61; 2002, c. 19, s. 25; 2004, c. 38, s. 20; 2008, c. 19, s. 21.

### **Adverse possession and prescription**

**74** (1) Except as provided by Section 75, no person may obtain an interest in any parcel registered pursuant to this Act by adverse possession or prescription unless the required period of adverse possession or prescription was completed before the parcel was first registered.

(2) Any interest in a parcel acquired by adverse possession or prescription before the date the parcel is first registered pursuant to this Act is absolutely void against the registered owner of the parcel in which the interest is claimed ten years after the parcel is first registered pursuant to this Act, unless

- (a) an order of the court confirming the interest;
- (b) a certificate of lis pendens certifying that an action has been commenced to confirm the interest;
- (c) an affidavit confirming that the interest has been claimed pursuant to Section 37 of the Crown Lands Act; or

(d) the agreement of the registered owner confirming the interest, has been registered or recorded before that time.

(3) repealed 2004, c. 38, s. 22. 2002, c. 19, s. 32; 2004, c. 38, s. 22.

### **Limit on land acquired**

**75** (1) The owner of an adjacent parcel may acquire an interest in part of a parcel by adverse possession or prescription after the parcel is first registered pursuant to this Act, if that part does not exceed twenty per cent of the area of the parcel in which the interest is acquired.

(1A) An owner of an undivided interest in a parcel may acquire the whole interest in the parcel by adverse possession or prescription after the parcel is first registered pursuant to this Act.

(2) For the purpose of this Section, adverse possession and prescription include time both before and after the coming into force of this Act. 2001, c. 6, s. 75; 2002, c. 19, s. 33.

### **Lasting improvements**

**76** (1) In this Section, “person” includes a person and that person’s heirs, executors, administrators, successors or assigns.

(2) Where a person makes lasting improvements on land under the belief that it is the person’s own, the court may, on the application of either the person making the improvement or the person to whom the land belongs,

(a) require the person making the improvement to remove it or abandon it;

(b) require the person making the improvement to acquire an easement, either limited in time or not, from the person to whom the land belongs, in the amount and on such terms as the court thinks just;

(c) require the person making the improvement to acquire the land on which it was made from the person to whom the land belongs, in the amount and on such terms as the court thinks just; or

(d) require the person to whom the land belongs to compensate the person making the improvement for the amount by which the improvement has enhanced the value of the land to the owner of it, in the amount and on such terms as the court thinks just.

(3) Where it is found that a building on land encroaches on adjoining land the court may, on the application of either the registered owner of the land on which the building is located or the registered owner of the land on which the building encroaches,

(a) require the owner of the building to remove or abandon the encroachment;

(b) require the owner of the building to acquire an easement, either limited in time or not, from the person to whom the land belongs, in the amount and on such terms as the court thinks just;

(c) require the owner of the building to acquire the land on which it was made from the person to whom the land belongs, in the amount and on such terms as the court thinks just.

(4) An acquisition of land pursuant to this Section is not a subdivision within the meaning of the Municipal Government Act.

(5) Any application to the court pursuant to this Section shall include a plan of survey of the lands that are the subject of the application. 2001, c. 6, s. 76.

### **Restriction on right to compensation**

**86** (1) A person is not entitled to compensation for a loss pursuant to subsection 85(1) if the loss was sustained because

- (a) the person caused or effected the error, omission or registration that caused the loss;
- (b) the person had actual knowledge of a right to request correction of the error, omission or registration and failed to request a correction within a reasonable time;
- (c) the person took an action or failed to take an action either after they had actual knowledge of the error, omission or registration or after the error, omission or registration would have been apparent to a reasonable person;
- (d) a recorded interest in the parcel register has lost validity or changed effect due to matters of fact or law subsequent to the recording of the interest;
- (e) there is a discrepancy between the legal description or Provincial mapping in the parcel register and the actual location, boundaries or extent of the parcel in question;
- (f) an overriding interest was not recorded in the parcel register;
- (g) there is an error in a mailing address in the parcel register;
- (h) there is an error in information included in the parcel register pursuant to subsection 13(1A);
- (i) there was an interruption in the availability of services at a land registration office or of access to Property Online; or
- (j) resulting from a loss sustained by anyone as a result of non-compliance with Section 12AA of the Condominium Act.

(2) A person's entitlement to compensation for a loss pursuant to subsection 85(1) shall be reduced by the amount of the loss sustained because

- (a) the person caused or effected, in whole or in part, the error, omission or registration;
- (b) the person failed to request a correction of the error, omission or registration within a reasonable time after the person had actual knowledge of the right to request a correction;

(c) the person failed to submit a claim to the Registrar General for compensation or commence an action for compensation within a reasonable period of time after the person had actual knowledge of a right to submit a claim or commence an action; or

(d) the person took an action or failed to take an action either after the person had actual knowledge of the error, omission or registration or after the error, omission or registration would have been apparent to a reasonable person. 2008, c. 19, s. 29; 2009, c. 10, s. 30.

### **Claims for compensation**

**87** (1) A person who claims to be entitled to compensation may submit a claim in writing to the Registrar General.

(1A) The Registrar General shall investigate a person's claim and may, after consideration of written or oral submissions,

(a) accept the person's claim in whole or in part and determine the amount of compensation owing;

(b) reject the person's claim in whole or in part; or

(c) direct the person to pursue a remedy available under this Act, including taking a proceeding under this Act, before continuing with the claim.

(2) Where the Registrar General is satisfied that the person is entitled to compensation, the Registrar General may enter into an agreement with the claimant providing for the payment of compensation and the reasonable expenses of bringing and proving the claim and interest in the amounts set out in or determined according to the agreement.

## **Land Titles Clarification Act**

### CHAPTER 250

### OF THE

### REVISED STATUTES, 1989

amended 1992, c. 22

### **Interpretation**

**2** In this Act,

(a) "certificate of claim" means a certificate of claim issued by the Minister under this Act;

(b) "certificate of revocation" means a certificate of revocation filed by the Minister under this Act;

(c) "certificate of title" means a certificate of title granted by the Minister under this Act;

(d) "Minister" means the Minister of Lands and Forests;

(e) "municipality" means a municipality to which the *Municipal Act* applies. R.S., c. 250, s.

2.

### **Land titles clarification area**

**3** (1) Where the residents of an area of a municipality are in necessitous circumstances as a result of lack of property development in the area and where there appears to be confusion as to the ownership of land, the Governor in Council may designate the area as a land titles clarification area.

#### **Approval required**

(2) No area of a municipality shall be designated as a land titles clarification area unless the council of the municipality approves.

#### **Plan to be filed**

(3) When an area of a municipality is designated as a land titles clarification area, the Minister shall file a plan of the area certified as approved by the Governor in Council and the municipal council in the registry of deeds for the registration district in which the area is situate.

#### **Effect of filed plan**

(4) The fact that a plan certified as provided in subsection (3) has been filed in the registry of deeds shall be conclusive proof that the area shown on the plan is a land titles clarification area. R.S., c. 250, s. 3.

### **Application for certificate of claim**

**4** (1) A person who resides in the Province and claims to own land in a land titles clarification area may apply to the Minister for a certificate of claim in respect of a lot of land in the area which he claims to own.

#### **Contents of application**

(2) An application for a certificate of claim shall contain

- (a) a description of the land sufficient to identify and distinguish it from all other lands;
- (b) a concise statement of the facts on which the applicant bases his claim to ownership of the lot of land; and
- (c) the names of the persons other than the applicant who have occupied the lot of land or who have at any time claimed ownership of the lot or any interest in it.

#### **Accompanying documents**

(3) An application for a certificate of claim shall be accompanied by

- (a) an abstract of the title to the lot of land showing all the records in the registry of deeds that affect or may affect title to the lot or any interest in it;
- (b) a statutory declaration attesting to the history of the occupation of the lot of land so far as the same is known; and
- (c) a statement showing the names of any person who holds any lien, judgment, mortgage or encumbrance or any other charge on the lot of land and the details thereof.

#### **Additional information**

(4) The Minister may require the applicant to furnish any information that the Minister desires and may require the applicant to verify by affidavit or otherwise any information or material furnished or included in or accompanying the application. R.S., c. 250, s. 4.

### **Issuance of certificate of claim**

**5** (1) When it appears from the application that the applicant is entitled to the lot of land, the Minister may issue a certificate of claim to the applicant.

**Examination by commissioner**

(2) When the Minister cannot determine from the application that the applicant is entitled to the lot of land, he may appoint a barrister of the Supreme Court as a commissioner to examine the applicants claim.

**Powers of commissioner**

(3) A commissioner appointed by the Minister pursuant to subsection (2) shall have all the powers of a commissioner appointed under the *Public Inquiries Act*.

**Report of commissioner**

(4) When a commissioner examines the claim, he shall either recommend issuance of a certificate of claim or report his reasons for not making this recommendation.

**Minister may act on recommendation**

(5) When a commissioner recommends issuance of a certificate of claim, the Minister may issue a certificate of claim without further inquiry.

**Other interest holders protected**

(6) No certificate of claim shall be issued in respect of any lot of land unless any lien, judgment, mortgage, encumbrance or charge other than a lien for municipal taxes has been discharged or satisfied or unless the holder thereof consents in writing.

**Registration and notice of certificate**

(7) When the Minister issues a certificate of claim, he shall file the same in the registry of deeds for the registration district in which the land is situate in the same manner as a deed of conveyance and shall forthwith cause notice thereof to be published in a newspaper having a circulation in the municipality in which the land is situate.

**Relief from rates and taxes**

(8) When a certificate of claim is issued and filed in the registry of deeds and there are rates and taxes owing in respect of the lot of land described in the certificate, the applicant may apply to the council of the municipality for relief from the rates and taxes owed and the council may give a discharge of all or a portion of such rates or taxes either absolutely or on the condition that a certificate of title is subsequently granted. R.S., c. 250, s. 5.

**Objection by other interest holder**

7 (1) Any person who claims to have an interest in the lot of land described in a certificate of claim or who is the holder of a lien, judgment, mortgage, encumbrance or any other charge may within sixty days of the date of registration of the certificate file a written notice thereof with the Minister.

**Consequence of not filing notice**

(2) Where a notice is not filed pursuant to subsection (1) within the time set out therein, the Minister may grant a certificate of title to the applicant.

**Service of notice**

(3) Where a notice is filed pursuant to subsection (1), the Minister shall deliver a copy of the notice to the applicant either by personal service or by prepaid registered mail.

**Court proceeding**

(3A) A person who files a notice pursuant to subsection (1) may, within sixty days after filing the notice, commence a proceeding in the Trial Division of the Supreme Court for a declaration that the interest claimed in the notice or that the lien, judgment, mortgage, encumbrance or other charge referred to in the notice is valid.

### **Consequence of not commencing proceeding**

(3B) Where a proceeding is not commenced pursuant to subsection (3A), the Minister shall grant a certificate of title to the applicant.

### **Parties and powers of Court**

(3C) In a proceeding commenced pursuant to subsection (3A),

(a) the parties shall be each person who filed the notice pursuant to subsection (1) as plaintiff, the applicant for the certificate of claim as defendant and such other persons as the Court orders be joined as parties;

(b) the Court may

(I) declare the interests of the parties,

(ii) dismiss the proceeding,

(iii) make such order as the Court deems just.

### **Duty of Minister**

(3D) After any proceeding commenced pursuant to subsection (3A) is finally disposed of, the Minister shall

(a) grant a certificate of title;

(b) revoke the certificate of claim; or

(c) grant a certificate of title subject to an interest in accordance with the decision of the Court.

### **Filing of revocation**

(3E) Where the Minister revokes a certificate of claim pursuant to subsection 3D [(3D)], the Minister shall file the revocation in the registry of deeds for the registration district in which the land is situate.

### **Venue of action relating to land**

(4) When a certificate of revocation has been filed but the objection mentioned in any notice given pursuant to subsection (1) has been removed and sixty days have elapsed from the date the objection was removed, the Minister may grant a certificate of title to the applicant.

### **Effect of certificate of title**

(5) When a certificate of title has been filed in the registry of deeds, title to the lot of land described in the certificate shall vest in the applicant named in the certificate in fee simple and such title shall be absolute and indefeasible but subject to any liens, judgments, mortgages, encumbrances or other charges or reservations, exceptions or other qualifications mentioned in the certificate. R.S., c. 250, s.7; 1992, c. 22, s. 1.

<https://nslegislature.ca/sites/default/files/legc/statutes/land%20registration.pdf>

## Marketable Titles Act

### CHAPTER 9 OF THE ACTS OF 1995-96

#### **Purpose of Act**

**2** The purpose of this Act is to

- (a) remove uncertainties respecting the determination of marketable titles to land in the interests of all present and future landowners and facilitate the development of the Province; and
- (b) remove uncertainties respecting the validity of past and future tax deeds. 1995-96, c. 9, s. 2.

#### **Interpretation**

**3** In this Act,

- (a) "chain of title" means a chain of title as described in subsection 4(2);
- (b) "instrument" means a conveyance or other document by which the title to land is changed or in any way affected, including a will or other testamentary instrument, a grant from the Crown, a court order, a certificate of title under the *Quieting Titles Act* or the *Land Titles Clarification Act* or a report of commissioners appointed to make partition;
- (c) "registered" means registered or filed in the registry of deeds for the registration district within which the land is situate. 1995-96, c. 9, s. 3.

#### **Marketable title**

**4** (1) A person has a marketable title to an interest in land if that person has a good and sufficient chain of title during a period greater than forty years immediately preceding the date the marketability is to be determined.

#### **Commencement of chain of title**

(2) A chain of title commences with the registered instrument, other than a will, that conveys or purports to convey that interest in the land and is dated most recently before the forty years immediately preceding the date the marketability is to be determined.

#### **Application to existing and future chains**

(3) A chain of title may commence before or after the coming into force of this Act.

#### **Extinguishment of certain interests**

(4) Notwithstanding the *Intestate Succession Act* and the *Descent of Property Act* but subject to Section 5, an interest in land, whether arising before or after the coming into force of this Act, that has not vested pursuant to an instrument that is registered is extinguished by a registered instrument, other than a will, that conveys or purports to convey that interest in the land and is executed by a person with a marketable title, upon the expiry of

- (a) the twenty-year period immediately following the vesting of the interest;
- (b) the ten-year period immediately following the attainment of the age of majority by the person with the interest;
- (c) where the person with the interest is of unsound mind, the ten-year period immediately following the person ceasing to be of unsound mind or the forty-year period immediately following the vesting of the interest, whichever is earlier; or
- (d) the three-year period immediately following the coming into effect of this Act,

whichever is latest.

Preservation of other interests

(5) Nothing in this Section extinguishes any interest in land except as provided by subsection (4). 1995-96, c. 9, s. 4.

**Preservation of interests otherwise extinguished**

**5** (1) A person may preserve an interest in land that, but for this Section, could be extinguished by subsection 4(4) by filing a notice of claim.

**Form of notice of claim**

(2) A notice of claim shall be in the form prescribed by the regulations.

**Contents of notice of claim**

(3) A notice of claim shall include

- (a) the name of the claimant;
- (b) the names of the owners of all interests in the land known to the claimant;
- (c) the address of the claimant;
- (d) a description of the land in which the interest is claimed;
- (e) the nature of the interest in the land claimed;
- (f) a summary of the basis of the claim, including the recording particulars of every instrument constituting the chain of title on which the claim is based; and
- (g) such other information as the regulations prescribe.

**Limitation on effect of notice**

(4) A notice of claim does not validate or extend an interest that has been extinguished by subsection 4(4) or that has expired or is invalid.

**New notice**

(5) A new notice of claim may be registered pursuant to this Act and, for that purpose, an earlier notice of claim is the instrument on which the claim is based.

**Effect of lack of knowledge or absence**

(6) For greater certainty, lack of knowledge or absence from the Province on the part of any person does not extend the period during which a notice of claim may be registered. 1995-96, c. 9, s. 5.

**"tax deed" defined**

**6** (1) In this Section, "tax deed" means

- (a) a certificate that has or purports to have the effect of vesting land that was to be sold for non-payment of taxes in a city, town, municipality of a county or district, regional municipality, village commissioners or service commission as defined by the *Municipal Affairs Act*; or
- (b) a deed from a city, town, municipality of a county or district, regional municipality, village commissioners or service commission as defined by the *Municipal Affairs Act* to land sold or purportedly sold for non-payment of taxes.

**Limitation period on tax deed actions**

(2) A tax deed may not be set aside for any reason whatsoever except during the six years following registration of the tax deed, and thereafter the tax deed is binding and conclusive upon all persons and is not liable to be attacked or impeached at law by any person, and the tax deed conveys an absolute and indefeasible title in fee simple to the land described in the tax deed and is conclusive evidence, with respect to the purchaser and every person claiming through the purchaser, that every requirement for the proper assessment and sale of the land has been met.

**Power of court to exclude**

(3) Notwithstanding subsection (2), a court may exclude from a tax deed all or part of the lands described in the tax deed that the court finds were assessed to a person, other than the person to whom the property was assessed when the lands were sold for arrears of taxes, who has an interest in the lands or part thereof and in respect of which taxes were not in arrears for more than one year at the time of the sale.

**Limitation on application of subsection (2)**

(4) Subsection (2) does not apply where a court finds that the current owner of the land participated in a fraud or breach of trust with respect to the sale.

**Application of subsection (2)**

(5) Subsection (2) applies whether the tax deed was registered before or after the coming into force of this Act.

**Action for damages unaffected**

(6) Subsection (2) does not deprive any person of any cause of action that person may have for damages for the wrongful sale of land for taxes. 1995-96, c. 9, s. 6.

**Exceptions to Act**

7 (1) This Act does not apply to

- (a) any interest in land created or preserved by a statute;
- (b) the interest of a municipal government in a public street, road, highway or road reserve;
- (c) a right of way or easement in favour of a public utility or a municipal government;
- (d) mineral rights; or
- (e) an easement or right of way that is being used and enjoyed.

Exceptions to subsections 4(1) and (2)

(2) Subsections 4(1) and (2) do not apply to

- (a) land in respect of which a certificate of title has been issued under the *Quieting Titles Act*;
- (b) land registered under the *Land Titles Clarification Act* or the *Land Titles Act*; or
- (c) any interest in land that a registered owner may no longer recover by reason of the *Limitation of Actions Act*.

**Exception to subsection 4(4)**

(3) Subsection 4(4) does not apply to an adverse interest acknowledged or specifically referred to in the description of land in a deed forming part of the chain of title to the land.

**Exception to Limitation of Actions Act**

(4) Section 3 of the *Limitation of Actions Act* does not apply to any time period set out in this Act. 1995-96, c. 9, s. 7.

**Crown interests preserved**

9 For greater certainty, nothing in this Act affects any interest of Her Majesty in any land. 1995-96, c. 9, s. 9.

## **Matrimonial Property Act**

CHAPTER 275

OF THE

REVISED STATUTES, 1989

**amended** 1995-96, c. 13, s. 83

### **Interpretation**

**2** In this Act,

(a) "business assets" means real or personal property primarily used or held for or in connection with a commercial, business, investment or other income-producing or profit-producing purpose, but does not include money in an account with a chartered bank, savings office, loan company, credit union, trust company or similar institution where the account is ordinarily used for shelter or transportation or for household, educational, recreational, social or aesthetic purposes;

(b) "child" means a child of both spouses born within or outside the marriage and includes

(I) a person adopted by both spouses, and

(ii) a person whom both spouses have demonstrated a settled intention to treat as a child of the marriage,

but does not include a person placed with them as foster parents for consideration by a person having lawful custody;

(c) "court" means the Trial Division of the Supreme Court unless the context otherwise requires;

(d) "dwelling" includes a house, condominium, cottage, mobile home, trailer or boat occupied as a residence;

(e) "marriage contract" means a marriage contract pursuant to Section 23;

(f) "separation agreement" means an agreement in writing between spouses who are living or intend to live separate and apart;

(g) "spouse" means either of a man and woman who

(I) are married to each other,

(ii) are married to each other by a marriage that is voidable and has not been annulled by a declaration of nullity, or

(iii) have gone through a form of marriage with each other, in good faith, that is void and are cohabiting or have cohabited within the preceding year,

and for the purposes of an application under this Act includes a widow or widower. R.S., c. 275, s. 2.

### **"matrimonial home" defined**

**3** (1) In this Act, "matrimonial home" means the dwelling and real property occupied by a person and that person's spouse as their family residence and in which either or both of them have a property interest other than a leasehold interest.

### **Property only partly used as matrimonial home**

(2) Where property that includes a matrimonial home is used for other than residential purposes, the matrimonial home only includes that portion of the property that can reasonably be regarded as necessary for the use and enjoyment of the family residence.

**Home owned by corporation**

(3) The ownership of a share or an interest in a share of a corporation entitling the owner to the occupation of a dwelling owned by the corporation is deemed to be an interest in the dwelling for the purposes of this Section.

**More than one matrimonial home**

(4) A person and the persons spouse may have more than one matrimonial home. R.S., c. 275, s. 3.

**"matrimonial assets" defined**

**4** (1) In this Act, "matrimonial assets" means the matrimonial home or homes and all other real and personal property acquired by either or both spouses before or during their marriage, with the exception of

- (a) gifts, inheritances, trusts or settlements received by one spouse from a person other than the other spouse except to the extent to which they are used for the benefit of both spouses or their children;
- (b) an award or settlement of damages in court in favour of one spouse;
- (c) money paid or payable to one spouse under an insurance policy;
- (d) reasonable personal effects of one spouse;
- (e) business assets;
- (f) property exempted under a marriage contract or separation agreement;
- (g) real and personal property acquired after separation unless the spouses resume cohabitation.

**Damages or insurance proceeds**

(2) Notwithstanding clauses (b) and (c) of subsection (1), an award or settlement of damages in court or money being paid or payable under an insurance policy is a matrimonial asset to the extent that it is made, paid or payable in respect of a matrimonial asset.

**Resumption of cohabitation**

(3) For the purposes of clause (g) of subsection (1), spouses are deemed not to have resumed cohabitation where there has been a resumption of cohabitation by the spouses during a period or periods in aggregate not exceeding more than ninety days with reconciliation as its primary purpose.

**Shares of corporation**

(4) Where property owned by a corporation would, if it were owned by a spouse, be a matrimonial asset, then shares in the corporation owned by the spouse having a market value equal to the value of the benefit the spouse has in respect of that property are matrimonial assets. R.S., c. 275, s. 4.

**Equal right of possession of matrimonial home**

**6** (1) A spouse is equally entitled to any right of possession of the other spouse in a matrimonial home.

**Termination of right of possession**

(2) Subject to an order of the court under this or any other Act and subject to a separation agreement that provides otherwise, a right of a spouse to possession by virtue of subsection (1) ceases upon the spouse ceasing to be a spouse. R.S., c. 275, s. 6.

**Designation of matrimonial home**

**7** (1) Spouses may designate, by instrument in writing executed by both spouses, any property as their matrimonial home and following the registration of such a designation in the registry of deeds for the registration district in which the property is located any other property that

otherwise would be a matrimonial home and is not so designated ceases to be a matrimonial home.

**Change or cancellation**

(2) Spouses may, by instrument in writing executed by both spouses and registered in the registry of deeds, change or cancel a designation made under subsection (1).

**Proof of execution**

(3) A designation, change or cancellation of a designation made under this Section shall be proved as required by the *Registry Act*.

**Deemed cancellation**

(4) A designation made under this Section is deemed to be cancelled upon the registration of

- (a) a court order cancelling the designation;
- (b) proof of death of one of the spouses; or
- (c) a conveyance disposing of the property designated as a matrimonial home.

**Effect of cancellation**

(5) Upon the cancellation of a designation made under this Section, property rights as between spouses shall be determined as if the designation had never been made. R.S., c. 275, s. 7.

**Disposition of matrimonial home**

**8** (1) Neither spouse shall dispose of or encumber any interest in a matrimonial home unless

- (a) the other spouse consents by signing the instrument of disposition or encumbrance, which consent shall not be unreasonably withheld;
- (b) the other spouse has released all rights to the matrimonial home by a separation agreement or marriage contract;
- (c) the proposed disposition or encumbrance is authorized by court order or an order has been made releasing the property as a matrimonial home; or
- (d) the property is not designated as a matrimonial home and an instrument designating another property as a matrimonial home of the spouses is registered and not cancelled.

**Disposition contrary to subsection (1)**

(2) Where a spouse disposes of or encumbers an interest in a matrimonial home contrary to subsection (1), the transaction may be set aside by the other spouse upon an application to the court unless the person holding the interest or encumbrance acquired it for valuable consideration, in good faith and without notice that the property was a matrimonial home.

**Affidavit respecting disposition**

(3) An affidavit of the person making a disposition or encumbrance verifying that

- (a) the person is not a spouse at the time of making the disposition or encumbrance;
- (b) the property disposed of or encumbered has never been occupied by the person and the persons spouse as their matrimonial home; or
- (c) the spouse of that person has released all rights to the matrimonial home by a separation agreement, marriage contract or designation made pursuant to this Act,

is, unless the property is designated or the person to whom the disposition or encumbrance is made had notice to the contrary, deemed to be sufficient proof that the property is not a matrimonial home. R.S., c. 275, s. 8.

**Notice to both spouses**

**9** (1) Where a person is proceeding to realize upon a lien, encumbrance or execution or exercises a forfeiture against property that is a matrimonial home, the spouse who has a right of possession by virtue of this Act has the same right of redemption or relief against forfeiture as the other

spouse has and is entitled to any notice respecting the claim and its enforcement or realization to which the other spouse is entitled.

### **Service of notice**

(2) Any notice to which a spouse is entitled by virtue of subsection (1) is deemed to be sufficiently served if served personally or by registered mail addressed to the person, upon whom notice is to be served, at the persons usual or last known address or, where none, the address of the matrimonial home, and, where notice is served by mail, the service is deemed to have been made on the fifth day after the day of mailing.

### **Application for division of matrimonial assets**

12 (1) Where

- (a) a petition for divorce is filed;
- (b) an application is filed for a declaration of nullity;
- (c) the spouses have been living separate and apart and there is no reasonable prospect of the resumption of cohabitation; or
- (d) one of the spouses has died,

either spouse is entitled to apply to the court to have the matrimonial assets divided in equal shares, notwithstanding the ownership of these assets, and the court may order such a division.

### **Limitation period for surviving spouse**

(2) An application for the division of matrimonial assets shall be made by a surviving spouse within six months after probate or administration of the estate of the deceased spouse is granted by a court of probate and not thereafter.

### **Extension of time**

(3) Notwithstanding subsection (2), where the court is satisfied that the surviving spouse did not know of the grant of probate or administration or did not have an adequate opportunity to make such an application, the court may extend the time for making the application but such an application shall relate only to matrimonial assets remaining undistributed at the date of the application.

### **Right of surviving spouse as additional right**

(4) Any right that the surviving spouse has to ownership or division of property under this Act is in addition to the rights that the surviving spouse has as a result of the death of the other spouse, whether these rights arise on intestacy or by will. R.S., c. 275, s. 12.

## **Mineral Resources Act**

### CHAPTER 18 OF THE ACTS OF 1990

amended 1992, c. 14, s. 61; 1992, c. 37, ss. 1, 2; 1994, c. 36; 1995-96, c. 8, s. 20

### **Interpretation**

2 In this Act,

- (a) "assessment work" means *bona fide* work that conforms to the regulations and is submitted for credit as work to prove the existence, extent and value of a mineral deposit and includes work carried out pursuant to a special licence;
- (b) "claim" means a mineral claim of forty acres or 16.188 hectares, more or less, applied

for or held and renewable annually in accordance with this Act;

(c) "Crown" means Her Majesty in right of the Province;

(d) "Crown lands" means lands that are Crown lands within the meaning of the *Crown Lands Act*;

(e) "Department" means the Department of Natural Resources;

(f) "Deputy Minister" means the Deputy Minister of Natural Resources;

(g) "excavation permit" means a permit to conduct specified exploration and development activities pursuant to this Act;

(h) "exploration licence" means a licence by which the holder thereof is granted, pursuant to Section 28, the right to search and prospect for minerals within an area designated in the licence;

(ha) "geothermal resource" means a substance, including steam, water and water vapour, that is found anywhere below the surface of the earth and that derives an added value from the natural heat of the earth present in, resulting from or created by the earth;

(hb) "geothermal resource area" means an area designated by the Governor in Council pursuant to this Act;

(I) "holiday" includes a day or portion of a day designated pursuant to the *Civil Service Act* as a holiday;

(j) "lease" means a mining lease granted pursuant to Section 56 or a special lease granted pursuant to Section 22;

(k) "legal representative" means the executor, administrator, guardian, trustee, liquidator, receiver or other person upon whom an interest in a mineral right has devolved by operation of law, legal process or order of a court of competent jurisdiction;

(l) "lessee" means the holder of a lease or the legal representative acting on behalf of the holder;

(m) "licence" means an exploration licence or special licence;

(n) "licensee" means the holder of an exploration licence, a special licence or a development licence;

(o) "mill" means a facility in which a mineral or mineral-bearing substance may be concentrated, smelted, refined or otherwise processed except by simple washing or crushing;

(p) "milling permit" means a permit to operate a mill and premises issued pursuant to Section 102;

(q) "milling plan" means an approved plan for the operation of a mill;

(r) "mine" includes

(I) an opening upon, or excavation in, or working of, the ground for the purpose of mining, opening up or proving a mineral, gypsum, limestone or mineral-bearing substance,

(ii) an ore body, mineral deposit, stratum, soil, rock, stone, bed or earth, clay, sand, gravel or place where mining is being or may be carried on,

(iii) the ways, works, machinery, plant, bunkhouses, cook-houses, latrines, wash-houses and other buildings, structures and roadways below or above ground belonging to or used in connection with a mine, and

(iv) a quarry, excavation or opening in the ground made for the purpose of searching for, or removal of, a mineral, gypsum, limestone or mineral-bearing

substance that, for the purpose of this Act, is taken as such;

(s) "mineral" means a natural solid inorganic or fossilized organic substance and a substance prescribed to be a mineral, but does not include

(I) ordinary stone, building stone or construction stone,

(ii) sand, gravel, peat, peat moss or ordinary soil,

(iii) gypsum,

(iv) limestone, except that which is vested in the Crown, and

(v) oil or natural gas,

unless declared to be a mineral by the Governor in Council;

(t) "mineral right" means a licence or lease and includes a development licence;

(u) "mineral right holder" means a person whose name appears in the records of the Registrar as having a mineral right;

(v) "mining" includes a method of working whereby the soil, earth, rock, stone, mineral, gypsum, limestone or a mineral-bearing substance may be disturbed, whether previously disturbed or not, or removed, washed, sifted, roasted, smelted, refined, crushed, dissolved, precipitated, separated or dealt with for the purpose of obtaining a mineral, gypsum or limestone for sale or barter;

(va) "mining lease" means a mining lease issued pursuant to Section 56;

(w) "mining permit" means a mining permit issued pursuant to this Act;

(x) "mining plan" means an approved plan for the operation of a mine and the reclamation of a disturbed area;

(y) "Minister" means the Minister of Natural Resources;

(z) "officer" includes an inspector, engineer, geologist in the public service and a person designated by the Minister to carry out an inspection, investigation or other function pursuant to this Act;

(aa) "peace officer" means a peace officer as defined in the *Criminal Code* (Canada);

(ab) "permit" means a mining permit, excavation permit, surface rights permit or milling permit issued pursuant to this Act;

(ac) "permit holder" means the holder of a permit;

(ad) "person" includes a partnership;

(ae) "prescribed" means prescribed by the regulations;

(af) "private land" means all land other than Crown land;

(ag) "processing" means the treatment of a mineral or mineral-bearing substance beyond primary crushing and includes secondary crushing, grinding, concentrating, chemical extraction, smelting, refining and packaging;

(ah) "production" means the winning, taking or carrying away for sale or exchange of a mineral, mineral-bearing substance, gypsum, limestone, tailings or any product thereof, except for the purpose of assaying, sampling or metallurgical testing;

(ai) "record" means a book, map, chart, plan, file and a micrographic, electronic or other storage means for recording events, transactions, documents or information;

(aj) "Registrar" means the Registrar appointed pursuant to this Act;

(ak) "special lease" means a special lease issued pursuant to Section 22;

(al) "special licence" means a special licence issued pursuant to Section 22;

(am) "surface rights permit" means a permit issued pursuant to this Act authorizing entry upon, or passage over, specified private lands;

- (an) "tailings" means the residue discarded, set aside or impounded during production;
- (ao) "tract" means mineral tract comprising sixteen claims, as prescribed;
- (ap) "work credit" means credit given for assessment work performed upon a licence.  
1990, c. 18, s. 2; 1992, c. 14, s. 61; 1992, c. 37, s. 1; 1994, c. 36, s. 1.

### **Title to minerals**

**4** (1) All minerals are reserved to the Crown and the Crown owns all minerals in or upon land in the Province and the right to explore for, work and remove those minerals.

### **Powers of Minister**

**14** (1) The Minister may

- (a) extend, upon application and for good cause shown, the time fixed or allowed for the doing of anything or the taking of any proceeding pursuant to this Act; or
- (b) cancel, revoke or rescind a mineral right where money is due and owing to the Crown by the mineral right holder.

### **Extension ordered**

(2) An extension may be ordered pursuant to subsection (1) although the application for the same is not made until after the expiration of the time fixed or allowed and may require payment by the applicant to a person aggrieved by such extension. 1990, c. 18, s. 14.

### **Powers of entry**

**17** Every officer or person designated by the Minister, when engaged in duties pursuant to this Act, may at any reasonable time with assistants enter upon and pass over the land of any person by any reasonable means doing as little damage as possible and no action lies against that officer or person, the assistants, the Minister or the Province for any act done pursuant to this Section except actual damage. 1990, c. 18, s. 17.

### **Restriction on lands**

**21** (1) Lands within the Province may, from time to time, be restricted from any or all prospecting, exploration, development or mining for such periods of time and in such a manner as may be prescribed.

### **Requirement for licence to prospect**

(2) No person shall search and prospect for minerals except pursuant to a licence.

### **Exception**

(3) Notwithstanding subsection (2), a person who searches and prospects for minerals in a preliminary way with the intent of acquiring a mineral right where such searching and prospecting is restricted to outcrop and float examination, line flagging, geological and topographical mapping, rock, water, and overburden sampling and geophysical surveys is not required to obtain a licence pursuant to subsection (2) provided that person

- (a) is, in the case of an individual, of the age of majority;
- (b) except as otherwise prescribed, registers with the Registrar in the manner set forth in the regulations and pays the prescribed fee in the prescribed manner;
- (c) has the consent of the owner, occupant who has authority to give consent, or tenant of the surface rights, or in the case of Crown lands, the consent of the Minister; and
- (d) conducts the preliminary non-disturbance surface work on lands which are open for application for a licence, and which are not restricted pursuant to the regulations.

### **Prohibition where licence or lease**

(4) No person, including a person searching or prospecting pursuant to subsection (3), shall perform any work on a claim or tract held pursuant to a licence or lease unless the person is the

mineral right holder or does so with the authority of the mineral right holder. 1990, c. 18, s. 21; 1994, c. 36, s. 2.

#### **Prohibited entry or working of private land**

**39** No licensee, legal representative of the licensee or a person acting on behalf of the licensee shall enter upon, pass over or work private land for the purpose of gaining access to and working the licence except with the consent of the owner or tenant or pursuant to Section 100. 1990, c. 18, s. 39; 1994, c. 36, s. 6.

#### **Prohibited entry or working of Crown lands**

**40** No licensee, legal representative of the licensee or person acting on behalf of the licensee shall enter upon and work Crown lands except with the consent of the Minister or of a person designated by the Minister and upon such terms and conditions as are specified by the Minister. 1990, c. 18, s. 40; 1994, c. 36, s. 7.

#### **Application for right in land**

**70** (1) Whenever a lessee requires land, or a right or interest in land, for a mine or any purpose connected with or incidental to a mine and no agreement can be made for the acquisition thereof, or a right-of-way or easement in respect to the land, the lessee may present an application to the Minister stating that

- (a) the lessee is the lessee under a certain lease;
- (b) the lessee requires certain land or some right or interest therein, of which a plan and description is attached, for one or more of the above purposes in connection with the area covered by the lease;
- (c) a person named is the owner of the land, and the lessee is willing to make an arrangement with the owner for the acquisition of the land, right or interest, stating the nature of the proposed agreement and the price that the lessee is willing to pay, but the owner is unwilling to accept; and
- (d) the lessee requests that the Minister make an order that the right or interest in the lands required by the lessee be vested in the lessee.

#### **Deposit**

(2) The application shall be accompanied by the deposit with the Minister of such sum as directed for costs or expenses that may be ordered to be paid by the lessee to the owner.

#### **Vesting order**

(3) Upon application, the Minister may, by a vesting order, vest in the lessee the property right claimed by the lessee or such other right as the Minister may determine.

#### **Effect of filing order**

(4) A vesting order issued by the Minister shall be filed at the registry of deeds for the registration district in which the land to which the order relates is situate and the filing thereof is deemed to be a deposit of expropriation documents pursuant to the *Expropriation Act*.

#### **Deemed expropriating authority**

(5) Upon the filing of a vesting order by the Minister, the lessee named in the order is and is deemed to be the expropriating authority within the meaning of the *Expropriation Act*. 1990, c. 18, s. 70.

#### **Effect on Expropriations Act**

**71** In connection with the proceedings pursuant to Section 70,

- (a) the *Expropriation Act* applies *mutatis mutandis* to the expropriation;
- (b) notwithstanding Section 4 of the *Expropriation Act*, whenever the provisions of that Act conflict with the expropriation provisions of this Act, the expropriation provisions of

this Act prevail;

(c) the lessee is deemed to be the statutory authority for the purpose of the *Expropriation Act*;

(d) the Minister is deemed to be the approving authority for the purpose of the *Expropriation Act*. 1990, c. 18, s. 71.

## **Mining Companies Easements Act**

CHAPTER 288

OF THE

REVISED STATUTES, 1989

### **Acquisition of land or easement**

**2** When lands, lakes, streams or lands covered with water or easements or rights therein are required for any of the purposes set out in Section 70 of the *Mineral Resources Act*, or for the purpose of laying and maintaining pipe-lines, tubes or conduits by any company incorporated for the purpose of mining or drilling for oil or gas, and which company is the owner or lessee of mineral or oil rights other than as lessee from the Crown under the *Mineral Resources Act*, such lands, lakes, streams or lands covered with water or easements or rights therein may be acquired by said company to the same extent and in the same manner as if said company were a lessee from the Crown under the *Mineral Resources Act* and for said purposes such company shall be considered to be a lessee within the meaning of said Section 70 of the *Mineral Resources Act*. R.S., c. 288, s. 2.

### **Construction**

**3** Any such company may construct roads, subways, pipe-lines or conduits over, along, under and across any brooks, rivers and streams, not being navigable water, and any highway, subject nevertheless to regulations to be made by the Governor in Council. R.S., c. 288, s. 3.

## **Municipal Government Act**

CHAPTER 18 OF THE ACTS OF 1998

### **2 The purpose of this Act is to**

(a) give broad authority to councils, including broad authority to pass by-laws, and to respect their right to govern municipalities in whatever ways the councils consider appropriate within the jurisdiction given to them;

(b) enhance the ability of councils to respond to present and future issues in their municipalities; and

(c) recognize that the functions of the municipality are to

(I) provide good government,

(ii) provide services, facilities and other things that, in the opinion of the council, are necessary or desirable for all or part of the municipality, and

(iii) develop and maintain safe and viable communities.

### 3 In this Act,

- (a) "administrator" means the employee of a municipality designated by the chief administrative officer to be responsible for the provisions of this Act respecting dangerous or unsightly premises, except where the context otherwise requires, and includes a person acting under the supervision and direction of the administrator;
- (b) "assessment appeal region" means an assessment appeal region designated pursuant to the *Assessment Act*;
- (c) "assessment roll" means the assessment roll required to be prepared pursuant to the *Assessment Act*;
- (d) "auditor" means the auditor appointed for the municipality pursuant to this Act, except where the context otherwise requires;
- (e) "automatic machine" means a mechanical or electronic device that is operated by the introduction of a coin, counter or slug, and includes a vending machine but does not include automatic scales, telephone apparatus or a machine that is licensed by the Province or an agency of the Province;
- (f) "Board" means the Nova Scotia Utility and Review Board;
- (g) "building service connection" means a piping system that conveys sewage, liquid waste, storm water or surface runoff from a property to a municipal sewer;
- (h) "business occupancy assessment" has the same meaning as in the *Assessment Act*;
- (I) "chief administrative officer" means the chief administrative officer of a municipality;
- (j) "clerk" means the clerk of a municipality;
- (k) "combined sewer" means a sewer intended to function simultaneously as a storm sewer and a sanitary sewer;
- (l) "commercial property" has the same meaning as in the *Assessment Act*;
- (m) "community" means an area in a regional municipality entitled to elect a community council pursuant to this Act;
- (n) "community council" means the council of a community established pursuant to this Act;
- (o) "council" means the council of a municipality, except as otherwise defined in this Act;
- (p) "councillor" means a council member other than the mayor;
- (q) "county or district municipality" means a municipality incorporated as a municipality of a county or district pursuant to Chapter 295 of the Revised Statutes, 1989, the *Municipal Act*;
- (r) "dangerous or unsightly" means partly demolished, decayed, deteriorated or in a state of disrepair so as to be dangerous, unsightly or unhealthy, and includes property containing
- (I) ashes, junk, cleanings of yards or other rubbish or refuse or a derelict vehicle, vessel, item of equipment or machinery, or bodies of these or parts thereof,
  - (ii) an accumulation of wood shavings, paper, sawdust, dry and inflammable grass or weeds or other combustible material, or
  - (iii) any other thing that is dangerous, unsightly, unhealthy or offensive to a person,
- and includes property, a building or structure
- (iv) that is in a ruinous or dilapidated condition,

- (v) the condition of which seriously depreciates the value of land or buildings in the vicinity,
  - (vi) that is in such a state of non-repair as to be no longer suitable for human habitation or business purposes,
  - (vii) that is an allurement to children who may play there to their danger,
  - (viii) constituting a hazard to the health or safety of the public,
  - (ix) that is unsightly in relation to neighbouring properties because the exterior finish of the building or structure is not maintained, or
  - (x) that is a fire hazard to itself or to surrounding lands or buildings;
- (s) "debenture" includes any financial instrument approved by the Nova Scotia Municipal Finance Corporation;
- (t) "deed" means an instrument by which land is conveyed, transferred, assigned or vested in a person, but does not include a will, mortgage, agreement of sale or lease for a term of less than twenty-one years;
- (u) "Deputy Minister" means the Deputy Minister of the Department of Housing and Municipal Affairs;
- (v) "derelict vehicle, vessel, item of equipment or machinery " includes a vehicle, vessel, item of equipment or machinery that
- (i) is left on property, with or without lawful authority, and
  - (ii) appears to the administrator to be disused or abandoned by reason of its age, appearance, mechanical condition or, where required by law to be licensed or registered, by its lack of licence plates or current vehicle registration;
- (w) "Director of Assessment" means the Director of Assessment appointed pursuant to the *Assessment Act*, and includes a person acting under the supervision and direction of the Director;
- (x) "dog" means a dog, male or female, or an animal that is the result of the breeding of a dog and any other animal;
- (y) "drainage master plan" means a detailed plan of storm water runoff and the courses and channels of it, including flood plains, for an entire area of drainage;
- (z) "drainage plan" means a detailed plan of storm water runoff and the courses and channels of it, including flood plains, for one or more parts of an area of drainage for all lands tributary to, or carrying drainage from, land that is proposed to be subdivided;
- (aa) "dwelling unit" means living quarters that
- (I) are accessible from a private entrance, either outside the building or in a common area within the building,
  - (ii) are occupied or, if unoccupied, are reasonably fit for occupancy,
  - (iii) contain kitchen facilities within the unit, and
  - (iv) have toilet facilities that are not shared with the occupants of other dwelling units;
- (ab) "elector" means elector as defined in the *Municipal Elections Act*;
- (ac) "emergency services" means services related to the provision of emergency services, including fire services, emergency medical services, search and rescue, water rescue and assistance and protection for people and property in the event of disasters including, but not limited to, floods, hurricanes, motor vehicle accidents and chemical spills;
- (ad) "engineer" means the engineer of the municipality and includes a person acting

under the supervision and direction of the engineer;

(ae) "farm property" has the same meaning as in the *Assessment Act*;

(af) "fire department" means an incorporated body that provides fire services and that may, at its option, provide one or more other emergency services, and includes a fire or emergency services department of a municipality, village, fire protection district or other body corporate;

(ag) "fire protection district" has the same meaning as in the *Rural Fire District Act*;

(ah) "fire services" means services related to the prevention and suppression of fires;

(ai) "fiscal year" means the period from April 1st in one year to March 31st in the following year, including both dates;

(aj) "forest property" has the same meaning as in the *Assessment Act*;

(ak) "grading" means the alteration of land levels, including the addition or removal of topsoil or other material of any kind, and includes a change in land that alters the permeability of the soil;

(al) "improve" includes lay out, open, construct, repair and maintain;

(am) "incorporation date" means the date prescribed by the Governor in Council on which a regional municipality is established;

(an) "mayor" means the council member elected at large to be the chair of the council;

(ao) "Minister" means the Minister of Housing and Municipal Affairs;

(ap) "mobile canteen" means a vehicle used for the display, storage, transportation or sale of food or beverages by a mobile vendor;

(aq) "mobile vendor" means a person who vends from a mobile canteen or a stand;

(ar) "municipal government" means a municipal unit, village or service commission in the area to be incorporated as a regional municipality, and includes every authority, board, commission, corporation or other entity of that municipal unit, village or service commission and every joint authority, board, commission, committee or other entity involving that municipal unit, village or service commission;

(as) "municipal highway" means a highway owned by a municipality, pursuant to this Act, the *Public Highways Act* or otherwise;

(at) "municipal sewer" means a sewer controlled by a municipality or a village;

(au) "municipal unit" means a city, a town or a county or district municipality in the area to be incorporated as a regional municipality;

(av) "municipal water utility" means a utility owned, operated or managed by a municipality, village or service commission either directly or through a board or commission, for the purpose of producing, transmitting, delivering or furnishing water directly or indirectly to or for the public;

(aw) "municipality" means a regional municipality, town or county or district municipality, except where the context otherwise requires or as otherwise defined in this Act;

(ax) "oversized sewer" means a sewer that is designed to benefit lands that are in addition to lands that will benefit from the sewer immediately upon its completion;

(ay) "owner" includes

(I) as it refers to the owner of a dog, any person who possesses, has the care of, has the control of, or harbours a dog and, where the person is a minor, includes a person responsible for the custody of the minor,

- (ii) as it refers to the owner of property
  - (A) a part owner, joint owner, tenant in common or joint tenant of the whole or any part of land or a building,
  - (B) in the case of the absence or incapacity of the person having title to the land or building, a trustee, an executor, a guardian, an agent, a mortgagee in possession or a person having the care or control of the land or building,
  - (C) a person who occupies shores, beaches or shoals, and
  - (D) in the absence of proof to the contrary, the person assessed for the property;
- (az) "policy" means a resolution of the council that is required, pursuant to this Act, to be recorded in the by-law records of a municipality;
- (ba) "private on-site sewage disposal system" means a private system for sewage disposal serving one lot;
- (bb) "private wastewater facilities" means wastewater facilities that are privately owned and serving two or more properties;
- (bc) "public place" includes streets, parks and entrances, halls, corridors, washrooms, parking areas, driveways, roads, streets, sidewalks and alleys of a shopping centre, shopping mall or other shopping complex, recreation centre, restaurant and retail store;
- (bd) "regional assessment appeal court" means a regional assessment appeal court appointed pursuant to the *Assessment Act*;
- (be) "regional municipality" means a regional municipality established by, or continued pursuant to, this Act and includes the Cape Breton Regional Municipality, the Halifax Regional Municipality and the Region of Queens Municipality and the area over which each of those bodies corporate has jurisdiction;
- (bf) "registered Canadian charitable organization" means a charitable organization registered pursuant to the *Income Tax Act* (Canada) and the regulations made pursuant to that Act;
- (bg) "registrar of deeds" means a registrar of deeds appointed pursuant to the *Registry Act*;
- (bh) "registry" means the office of the registrar of deeds for the registration district in which the land is situate;
- (bi) "residential property" has the same meaning as in the *Assessment Act*;
- (bj) "resource property" has the same meaning as in the *Assessment Act*;
- (bk) "sale price" or "value" means the entire consideration for the sale of the property and, without restricting the generality of the foregoing, includes
  - (I) money consideration paid together with the par or face value of promissory notes, cheques, bills of exchange, agreements and securities forming part of the consideration,
  - (ii) the gross value of real or personal property given in exchange, in whole or in part, including mortgages made by the grantee in favour of the grantor or any person on behalf of the grantor,
  - (iii) outstanding obligations or accounts canceled, assumed or satisfied, and
  - (iv) taxes, liens, mortgages and encumbrances, including interest and expenses, assumed by the grantee;
- (bl) "sanitary sewer" means a sewer receiving and carrying liquid and water-carried

wastes and to which storm, surface or ground waters are not intentionally admitted;

(bm) "school board" means a school board as defined in the *Education Act* that, from time to time, may be responsible for the provision of schools in a municipality;

(bn) "service commission" means a board, commission or corporation created by, or under the authority of, an enactment that may

(I) provide services for an area, or the residents of an area, that are similar to one or more of those that may be provided by a municipality for its residents, and

(ii) levy rates and taxes, or require a municipality to levy rates and taxes, other than, or in addition to, water or electric rates fixed or approved pursuant to the *Public Utilities Act*,

but does not include a municipality, village or school board;

(bo) "sewage" means the combination of liquid and water-carried wastes from buildings, containing animal, vegetable or mineral matter in suspension or solution, together with such groundwater, surface water or storm water as might be present;

(bp) "sewer" means a pipe or conduit for carrying sewage, groundwater, storm water or surface runoff, and includes all sewer drains, storm sewers, clearwater sewers, storm drains and combined sewers vested in, or under the control of, a municipality;

(bq) "solid-waste management facility" means a sanitary landfill licensed pursuant to the *Environment Act* or a location not required to be licensed pursuant to that Act, a recycling facility, a transfer station, a waste separation facility, a household hazardous waste facility, an incinerator, a composting site or any other facility for the management of solid waste including collection, recycling, treatment and disposal;

(br) "special purpose tax" means a tax that the council, by resolution, declares to be a special purpose tax;

(bs) "special purpose tax account" means the account to which the proceeds of a special purpose tax are credited;

(bt) "special sewer connection" means a connection from a building on a property to a sewer that is not situate in the portion of the street on which the property immediately abuts;

(bu) "stand" includes a table, showcase, bench, rack, pushcart, wagon or wheeled vehicle or device that can be moved without the assistance of a motor and is used for the display, storage, transportation or sale of food, beverages or other merchandise by a mobile vendor;

(bv) "storm water" means water from precipitation of all kinds, and includes water from the melting of snow and ice, groundwater discharge and surface water;

(bw) "storm water system" means a method or means of carrying storm water, including ditches, swales, sewers, drains, canals, ravines, gullies, pumping stations, retention ponds, streams, watercourses, flood plains, ponds, springs, creeks, streets or private roads, roadways or driveways;

(bx) "storm sewer" means a sewer that carries storm water and surface runoff water, excluding sewage;

(by) "street" means a public street, highway, road, lane, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, except as otherwise defined in this Act;

(bz) "taxes" includes municipal rates, area rates, change in use tax, forest property tax,

recreational property tax, capital charges, one-time charges, local improvement charges and any rates, charges or debts prescribed, by the enactment authorizing them, to be a lien on the property;

(ca) "tax sale" includes a sale by public auction or a sale by tender, for the purpose of collecting taxes;

(cb) "treasurer" means the treasurer of a municipality, and includes a person acting under the supervision and direction of the treasurer;

(cc) "tree" includes a bush, shrub and hedge;

(cd) "vending" means the sale, or offering for sale, of

(I) food, beverages or other merchandise, unless they are immediately delivered to a residence or shop by the person selling them,

(ii) services, unless they are provided in a building;

(ce) "vending machine" means a mechanical or electronic device that

(I) is operated by the introduction of a coin, counter or slug, and

(cf) "village" means a village continued or incorporated pursuant to this Act;

(cg) "village commissioner" means a commissioner of a village;

(ch) "warden" means the council member chosen by the council of a county or district municipality to be the chair of the council;

(ci) "wastewater facilities" means the structures, pipes, devices, equipment, processes or other things used, or intended, for the collection, transportation, pumping or treatment of sewage and disposal of the effluent;

(cj) "water system" means the source, structures, pipes, hydrants, meters, devices, equipment or other things used, or intended, for the collection, transportation, pumping or treatment of water.

## PART I THE MUNICIPALITY

**4** Every municipality incorporated at the date this Act comes into force is subject to this Act.

**7 (5)** The powers and jurisdiction of a county or district municipality do not include an incorporated town within the boundaries of the county or district municipality.

**13 (3)** The mayor or warden and clerk or the persons designated by the council by policy may sign a deed or other document to which the municipality is a party on behalf of the municipality.

**14 (3)** Each council member, while in office, may administer oaths and take and receive affidavits, declarations and affirmations within the Province for use within the Province.

**39 (5)** The engineer may enter in or upon a property at

(a) a reasonable hour upon reasonable notice to the owner and any occupier of the property; or

(b) any time in the event of an emergency,

for the purpose of inspection, observation, measurement, sampling, testing or work to be done in accordance with this Act or a by-law made pursuant to this Act.

**40 (1)** Where approval or permission by the engineer is required pursuant to this Act, the engineer's decision to refuse the approval or permission may be appealed to the

(a) council; or

(b) where there is a committee designated by the council, by policy, to hear appeals, that

committee.

(2) On an appeal pursuant to subsection (1), the council or the designated committee, as the case may be, shall

- (a) direct the engineer to grant the approval or permission; or
- (b) uphold the decision of the engineer.

(3) The right of appeal pursuant to this Section expires fourteen days after the engineer serves a written decision regarding the approval or permission on the owner.

**50** (1) A municipality may acquire and own property granted or conveyed to the municipality either absolutely or in trust for a public or charitable purpose.

(2) Where property is conveyed to a municipality in trust for a public or charitable purpose, the municipality holds the property according to the terms of the trust and may do anything necessary to carry out the objects of the trust.

(3) The property vested in a municipality, absolutely or in trust, is under the exclusive management and control of the council, unless an Act of the Legislature provides otherwise.

(4) Possession, occupation, use or obstruction of property of a municipality does not give an estate, right or title to the property.

(5) A municipality may

- (a) acquire property, including property outside the municipality, that the municipality requires for its purposes or for the use of the public;
- (b) sell property at market value when the property is no longer required for the purposes of the municipality;
- (c) lease property owned by the municipality at market value;

(d) sell deeds for cemetery lots and certificates of perpetual care.

**52** (1) Where the council considers it necessary to acquire real property, including real property outside the municipality, for a purpose for which it may spend money, the council may expropriate the real property, but this power to expropriate does not authorize a municipality to expropriate property of another municipality.

(2) Where real property is proposed to be expropriated,

- (a) the municipality shall survey the property and prepare a description of it;
- (b) municipal employees and agents of the municipality may enter upon the property to survey or examine it; and
- (c) the municipality may make borings or other excavations in the property and shall reimburse the owner for any damage done if the expropriation is not completed.

(3) The *Expropriation Act* applies to expropriation proceedings by a municipality or a village.

**63**(3) The council may, by policy, authorize its employees to enter upon land within the municipality to

- (a) treat the trees on the land as approved and recommended by Forestry Canada;
- (b) inspect the trees to determine whether they are in a diseased condition or damaged to the extent that they constitute a hazard to the safety of persons or property.

**77**(4) Subject to subsections (5), (6) and (7), an owner of farm property may

- (a) transfer to each of the owners father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse; or
- (b) convey, reserve to or set aside for the owner, one lot suitable for the erection of a single family dwelling and the

- (c) lot shall not exceed one acre or the minimum size required by any applicable law, whichever is larger; and
- (d) change in use tax is not payable if the land ceases to be used for agricultural purposes.
- (5) For the purpose of subsections (6) and (7), "transfer" includes conveyance, reservation to and setting aside for.
- (6) The change in use tax is payable by the transferor of land referred to in subsection (4) in accordance with this Section if, within seven years of the date of the transfer, the owner of the lot, grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse of the owner or to the owner, then the change in use tax is payable by the transferor in accordance with this Section.
- (7) Subsections (4) to (6) do not apply to a transfer of land unless the grantor or person reserving or setting aside the land files, in the registry, a statutory declaration that the grantee of the land or person for whom the land is reserved or set aside, as the case may be, is a person named in subsection (4).
- 78(3)** Subject to subsections (4), (5) and (6), an owner of forest land may transfer to each father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse or may convey or reserve to or set aside for the owner one lot suitable for the erection of a single family dwelling, and the change in use tax is not payable if the land ceases to be used for forestry purposes.
- (4) A lot referred to in subsection (3) shall not exceed one acre or the minimum size required by any applicable law, whichever is larger.
- (5) If, within seven years of the date of the transfer, conveyance or reservation to or setting aside for the owner of a lot referred to in subsection (3), the grantee of the lot or person for whom the lot is reserved or set aside transfers the lot to any person other than a father, mother, brother, sister, son, daughter, grandson, granddaughter or spouse of the owner referred to in subsection (3) or to the owner, then the change in use tax is payable by the transferor in accordance with this Section.
- (6) Subsections (3) to (5) do not apply to any transfer, conveyance, reservation or setting aside of lands unless the grantor or person reserving or setting aside the land files, in the registry, a statutory declaration that the grantee of the land or person for whom the land is reserved or set aside, as the case may be, is a person named in subsection (3).
- 81** (2) The council may, by by-law
- (a) define classes of buildings to be erected or enlarged according to the varying loads that, in the opinion of council, the buildings impose or may impose on the sewer system and levy a one-time redevelopment charge to pay for additional or trunk sanitary or storm sewer capacity required to accommodate the effluent from the buildings;

## PART V DEED TRANSFERS

- 101** (1) Notwithstanding the *Registry Act*, the registrar of deeds shall not receive for registration a deed
- (a) where the property, or any part thereof, is situate within a municipality that levies a deed transfer tax, unless it bears a certificate signed by the treasurer stating that the deed

- transfer tax has been paid in full or that no deed transfer tax is payable;
- (b) where the whole of the property is situate within a municipality that does not levy a deed transfer tax, unless it is accompanied by the affidavit required pursuant to this Part.
- (2) The grantee shall file an affidavit made by the grantee or by someone having full knowledge of the facts setting out
- the names of the parties;
  - the location of the property;
  - the sale price of the property with full details of the consideration, including the amount of any lien or encumbrance subject to which the transfer was made; and
  - any other information prescribed by the Minister.
- (3) The affidavit shall be filed within ten days of the transfer.
- 102** (1) A council may determine, by by-law, that a deed transfer tax applies in the municipality and the rate of the deed transfer tax, but the rate of the deed transfer tax shall not exceed one and one half per cent of the value of the property transferred.
- (2) A deed transfer tax applies to the sale price of every property that is transferred by deed.
- 104** The deed transfer tax shall be paid by the grantee named in the deed within ten days of the transfer .
- 109** (1) Where a deed transfers property
- between persons married to one another;
  - between persons formerly married to one another, if the transfer is for the purpose of division of marital assets; or
  - by way of gift, notwithstanding that
    - the deed transfers property subject to an encumbrance, including a mortgage or a tax lien, and the grantee assumes the amount of the encumbrance, including interest and expenses, or
    - there is a nominal consideration therefor,
 it is exempt from deed transfer tax.
- (2) Where
- a deed merely confirms, corrects, modifies or supplements a deed previously given;
  - there is no consideration beyond one dollar; and
  - the deed does not include more property than the deed previously given,
- it is exempt from deed transfer tax.
- (3) A deed from the Nova Scotia Farm Loan Board to a borrower under the *Agriculture and Rural Credit Act* is not subject to deed transfer tax.
- (4) A deed given pursuant to a tax sale is not subject to deed transfer tax.
- (5) A deed is not subject to deed transfer tax if the certificates of execution for the deed show, on their face, that they were signed by the official prior to the date on which the municipality adopted a deed transfer tax.
- (6) A deed which transfers property pursuant to an agreement of purchase and sale entered into prior to the date on which the municipality adopted a deed transfer tax, is not subject to deed transfer tax.
- (7) Where the grantee is a registered Canadian charitable organization, a deed is exempt from the deed transfer tax if the property is not to be used for any commercial, industrial, rental or other business purpose and if an officer of the grantee makes and files an affidavit to that effect.
- (8) Notwithstanding subsection (3), where, within three years after the filing of the affidavit, the

property is used by the grantee for a commercial, industrial, rental or other business purpose or is sold or conveyed by the grantee, the treasurer shall compute the deed transfer tax for which the grantee would have been liable if the grantee had not been a registered Canadian charitable organization and the grantee is liable to pay the amount of the tax and interest on it at the rate of ten per cent per annum computed from the date of the deed referred to in subsection (3).

## PART VI TAX COLLECTION

**135** (1) Where land assessed to "owner unknown" is liable to be sold for taxes, the municipality shall notify the Minister of Natural Resources that the land is liable to be sold for taxes.

(2) No land assessed to "owner unknown" shall be sold for taxes unless the Minister of Natural Resources has been notified at least one hundred and twenty days before the sale and has not acted to vest the land in Her Majesty in right of the Province.

(3) The Minister of Natural Resources may require a municipality to furnish a statement concerning a specified property assessed to "owner unknown".

(4) A notice or statement required pursuant to this Section shall include a general description of the land, the amount of taxes and interest owing in respect of the land and any information the municipality has concerning possible owners of the land.

(5) Upon payment of the taxes and interest owing in respect of land assessed to "owner unknown", plus ten per cent as an allowance for expenses, the land vests absolutely in Her Majesty in the right of the Province, subject to this Section.

(6) When land vests in Her Majesty in the right of the Province pursuant to this Section, the Minister of Natural Resources shall cause a certificate to be registered in the registry

(a) stating that the land described in the certificate is vested in Her Majesty;

(b) setting out the date the land vested;

(c) describing the land with the best available description;

(d) setting out the property identification number, assessment account number and municipal tax account number for the land; and

(e) stating that the land will cease to vest in Her Majesty if

(I) on application made within eighteen months of the vesting, a person proves to the satisfaction of the Minister of Natural Resources or a judge of the Supreme Court of Nova Scotia on appeal from the Minister of Natural Resources that the person owns the land, and

(ii) the person pays the taxes, interest and allowance for expenses paid by the Minister of Natural Resources.

(7) Within six months of the vesting of the land, a copy of the certificate shall be published in a newspaper circulating in the municipality in which the land is situate once a week, for three successive weeks.

(8) A person may apply to the Minister of Natural Resources within eighteen months after land vests in Her Majesty in right of the Province pursuant to this Section to determine that the land ceases to vest in Her Majesty, and if the applicant proves to the satisfaction of that Minister that the person owns the land, that Minister shall determine that upon payment by the applicant of the taxes, interest and allowance for expenses paid by the Minister of Natural Resources for the land, the land ceases to vest in Her Majesty.

(9) Where land ceases to vest in Her Majesty in right of the Province pursuant to this Section, the Minister of Natural Resources shall cause a certificate to that effect to be registered in the registry and shall include in the certificate the recording particulars of the certificate that set out the vesting of the land.

(10) A decision of the Minister of Natural Resources may be appealed within thirty days to the Supreme Court of Nova Scotia.

(11) Where land ceases to vest in Her Majesty in right of the Province pursuant to this Section, the land is deemed never to have vested in Her Majesty pursuant to this Section.

(12) Where a dominant tenement vests in Her Majesty in right of the Province pursuant to this Section, an easement or a right-of-way appurtenant to it passes to Her Majesty, and where a servient tenement vests in Her Majesty pursuant to this Section, the vesting does not terminate or affect an easement or a right-of-way to which it is subject.

**136** (1) A person who claims to own land that vests in Her Majesty in right of the Province pursuant to this Act may apply to the Supreme Court of Nova Scotia for an order declaring what rights that person would have had to the land if the land had not vested in Her Majesty, and the Court may direct that any necessary inquiries be made and may finally adjudicate the matter.

(2) An application pursuant to subsection (1) may be made within ten years after the land vests in Her Majesty in right of the Province or, where the person who claims to own the land is under the age of nineteen years or of unsound mind when the land vests in Her Majesty, within ten years after that person attains the age of nineteen years or becomes of sound mind, but no application may be made more than twenty years after the land vests in Her Majesty.

(3) Where the Supreme Court of Nova Scotia determines that a person owns land that has vested in Her Majesty in right of the Province pursuant to this Act, the Minister of Natural Resources, in the Minister's absolute discretion, shall

- (a) pay to that person the value of the land at the date the land vested in Her Majesty, less
  - (I) the amount of taxes, interest and allowance for expenses paid by the Minister, and
  - (ii) any grants in lieu of taxes that may have been paid with respect to the land; or
- (b) upon payment of the amount of taxes, interest and allowance for expenses paid by the Minister and any grants in lieu of taxes that may have been paid with respect to the land, convey the land to that person.

**139** (1) After the time set out in the tax sale preliminary notice has expired, a title search shall be conducted for each property on the list for which the taxes have not been paid.

(2) The cost of the title search, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered.

(3) Where the treasurer determines that a survey of the property is necessary for the proper identification and description of the land to be sold, a survey may be undertaken before or after the sale.

(4) The cost of a survey, from the date it is ordered, is part of the expenses of the sale and a lien on the property for which it is ordered and where the survey is not undertaken prior to the sale, the expenses of the sale shall include an estimate of the cost of the survey.

(5) Where the title search or survey is done by an employee of the municipality, the cost included in the expenses of the sale is the amount determined by the treasurer to be the reasonable cost of having the same work performed by a solicitor or surveyor in private practice.

**150** (1) After land is sold for taxes, upon payment of the purchase money the treasurer shall give the purchaser a certificate of sale, in Form C in Schedule A or to like effect, describing the land sold and stating the sum for which it was sold.

(2) The certificate shall state that a deed conveying the land to the purchaser, or as directed by the purchaser, shall be provided upon payment of the prescribed fee at any time after six months from the date of the sale, if the property is not redeemed.

(3) The treasurer shall register a copy of the certificate of sale in the registry.

(4) A copy of the certificate of sale shall be served on each owner of the land sold and, if the land may be redeemed, a notice that the land may be redeemed shall be included with the copy of the certificate of sale.

**152** (1) Land sold for non-payment of taxes may be redeemed by the owner, a person with a mortgage, lien or other charge on the land or a person having an interest in the land within six months after the date of the sale, but where, at the time of sale, taxes on the land are in arrears for more than six years, no right of redemption exists.

(2) To redeem the land the person redeeming shall pay

(a) the sum paid by the purchaser;

(b) interest at the rate of ten per cent per annum on the total sum paid by the purchaser from the date of the sale to the date of redemption;

(c) taxes levied on the land after the sale and any interest;

(d) the fee to record the certificate of discharge;

(e) all sums paid by the purchaser for fire insurance premiums to insure buildings on the land; and

(f) all amounts paid by the purchaser for necessary repairs made, with the written approval of the treasurer, to buildings on the land,

less any balance remaining in the tax sale surplus account with respect to the property and any rent or other income earned by the purchaser from the land.

(3) Where the municipality buys the land, the taxes payable by a person redeeming are the amount that would be payable if the municipality did not own the land.

(4) Where redemption takes place before the tax rate is set, the taxes payable by a person redeeming are those payable for the preceding year and after the tax rate is set, any surplus shall be refunded to the person redeeming and the land is liable for any deficiency.

(5) Where property has been redeemed, a certificate of discharge in Form D in Schedule A, or to like effect, shall be prepared and registered in the registry.

(6) The registrar of deeds shall make a marginal note referring to the registry of the certificate of discharge on the recorded copy of the certificate of sale.

**155** (1) At the request of the purchaser at a tax sale and upon payment of the fee determined by the council, by resolution, the municipality shall deliver a deed to the land in Form E in Schedule A, or to like effect, to the purchaser, or as directed by the purchaser, at any time after the

(a) sale if, at the time of the sale, taxes on the land were unpaid for more than six years before the sale; or

(b) expiration of six months from the sale, if the land has not been redeemed.

(2) The deed shall

(a) fully describe the land conveyed;

(b) be signed by the mayor or warden and the clerk; and

(c) be under the seal of the municipality.

- 156** (1) A deed to land sold for taxes is conclusive evidence that the provisions of this Act with reference to the sale of the land described in the deed have been fully complied with and each act and thing necessary for the legal perfection of the sale has been duly performed.
- (2) The deed has the effect of vesting the land in the grantee in fee simple, free and discharged from all encumbrances.
- (3) Notwithstanding subsection (1), where a dominant tenement is sold for taxes, an easement or right-of-way appurtenant to it passes to the purchaser and where a servient tenement is sold for taxes, the sale does not terminate or affect an easement or right-of-way to which it is subject.

## PART VII BY-LAWS

- 169** (1) A by-law has the force of law upon publication.
- (2) A by-law is published when
- (a) it is passed by the council in the manner provided in this Act;
  - (b) it is approved by a minister of the Crown whose approval is required; and
  - (c) a notice is published in a newspaper circulating in the municipality, stating the object of the by-law and the place where it may be read.
- (3) When a by-law is published, the clerk shall file a certified copy of the by-law with the Minister.
- (4) Failure to file with the Minister a copy of a by-law that is not subject to the approval of the Minister does not invalidate the by-law.
- 180** (1) The council may, by by-law, designate lands owned by a municipality as protected water supply areas.
- (2) No person shall
- (a) place, or permit to escape, any matter or thing of an offensive nature, deleterious nature or likely to impair the quality of water for use for domestic purposes, upon land in a protected water supply area;
  - (b) fish or bathe in a lake, or other body of water, in a protected water supply area;
  - (c) camp on land in a protected water supply area;
  - (d) cut wood or erect, construct or place a building or structure in a protected water supply area without the permission of the council.
- (3) The *Angling Act* does not apply to a lake, river or stream forming part of a water supply area of a municipality or village or to the land surrounding or adjacent to them.

## PART VIII PLANNING AND DEVELOPMENT

- 190** The purpose of this Part is to
- (a) enable the Province to identify and protect its interests in the use and development of land;
  - (b) enable municipalities to assume the primary authority for planning within their respective jurisdictions, consistent with their urban or rural character, through the

adoption of municipal planning strategies and land-use by-laws consistent with interests and regulations of the Province;

(c) establish a consultative process to ensure the right of the public to have access to information and to participate in the formulation of planning strategies and by-laws, including the right to be notified and heard before decisions are made pursuant to this Part; and

(d) provide for the fair, reasonable and efficient administration of this Part.

**191** In this Part and Part IX, unless the context otherwise requires

(a) "aggrieved person" includes

(I) an individual who *bona fide* believes the decision of the council will adversely affect the value, or reasonable enjoyment, of the person's property or the reasonable enjoyment of property occupied by the person,

(ii) an incorporated organization, the objects of which include promoting or protecting the quality of life of persons residing in the neighbourhood affected by the council's decision, or features, structures or sites of the community affected by the council's decision, having significant cultural, architectural or recreational value, and

(iii) an incorporated or unincorporated organization in which the majority of members are individuals referred to in subclause (I);

(b) "commission" means a district planning commission continued pursuant to this Act;

(c) "development" includes the erection, construction, alteration, placement, location, replacement or relocation of, or addition to, a structure and a change or alteration in the use made of land or structures;

(d) "development officer" means the person or persons appointed by a council to administer a land-use or subdivision by-law;

(e) "Director" means the Provincial Director of Planning appointed pursuant to this Part, and includes a person acting under the supervision and direction of the Director;

(f) "former *Planning Act*" means Chapter 346 of the Revised Statutes, 1989, the *Planning Act* and any predecessor to that Act;

(g) "incentive or bonus zoning" means requirements that permit the relaxation of certain requirements if an applicant exceeds other requirements or undertakes other action, in the public interest, as specified in the requirements;

(h) "municipal planning strategy" means a municipal planning strategy, intermunicipal planning strategy or secondary planning strategy;

(I) "nonconforming structure" means a structure that does not meet the applicable requirements of a land-use by-law;

(j) "nonconforming use of land" means a use of land that is not permitted in the zone;

(k) "nonconforming use in a structure" means a use in a structure that is not permitted in the zone in which the structure is located;

(l) "participating municipality" means a municipality participating in a commission;

(m) "planning area" means the area to which a municipal or inter-municipal planning strategy applies;

(n) "planning documents" means

(I) a municipal planning strategy and a land-use by-law adopted to carry out the municipal planning strategy,

- (ii) an amendment to a municipal planning strategy and a land-use by-law amendment to carry out the municipal planning strategy amendment, and
- (iii) a subdivision by-law and an amendment to it;

- (o) "regulate" does not include the power to prohibit;
- (p) "structure" includes a building;
- (q) "subdivision" means the division of an area of land into two or more parcels, and includes a resubdivision or a consolidation of two or more parcels;
- (r) "watercourse" means a lake, river, stream, ocean or other body of water.

**198** (1) Planning documents adopted after the adoption of a statement of provincial interest shall be reasonably consistent with the statement.

(2) The Minister may request that a council, within a prescribed time, adopt or amend its planning documents so that they are reasonably consistent with a statement of provincial interest.

(3) Where

- (a) a council does not comply with a request pursuant to subsection (2); or
- (b) development that is inconsistent with a statement of provincial interest might occur and the Minister is satisfied that there are necessary and compelling reasons to establish an interim planning area to protect the provincial interest,

the Minister may, by order, establish an interim planning area for a prescribed area.

(4) Within an interim planning area, development, or certain classes of development, may be regulated or prohibited, as necessary, to protect the provincial interest.

(5) No permit or approval of any kind may be issued that is contrary to an order establishing an interim planning area or an order regulating or prohibiting development in the interim planning area.

(6) The Minister shall

- (a) send a copy of an order establishing an interim planning area and any order regulating or prohibiting development in the interim planning area to the clerk of each municipality affected; and
- (b) give notice that an order is in effect in a newspaper circulating in the area affected.

(7) Where a council adopts planning documents in a manner reasonably consistent with a statement of provincial interest and the documents are in effect, the Minister shall revoke an order establishing an interim planning area for the prescribed area.

**205** (1) A council shall adopt, by by-law, planning documents by a majority vote of the maximum number of members that may be elected to the council.

**211** (1) A council may, by policy, adopt amendments to

- (a) the engineering specifications in a subdivision by-law;
- (b) the processing fees set out in a land-use by-law or in a subdivision by-law;
- (c) a subdivision by-law resulting from an amendment to the provincial subdivision regulations.

(2) An amendment referred to in subsection (1) is not subject to the review of the Director or the approval of the Minister.

**212** A council may adopt a municipal planning strategy for all, or part, of the municipality and there may be separate strategies for different parts of the municipality.

**213** The purpose of a municipal planning strategy is to provide statements of policy to guide the development and management of the municipality and, to further this purpose, to establish

- (a) policies which address problems and opportunities concerning the development of

- land and the effects of the development;
- (b) policies to provide a framework for the environmental, social and economic development within a municipality;
- (c) policies that are reasonably consistent with the intent of statements of provincial interest; and
- (d) specify programs and actions necessary for implementing the municipal planning strategy.

**214** (1) A municipal planning strategy may include statements of policy with respect to any or all of the following:

- (a) the goals and objectives of the municipality for its future;
- (b) the physical, economic and social environment of the municipality;
- (c) the protection, use and development of lands within the municipality, including the identification, protection, use and development of lands subject to flooding, steep slopes, lands susceptible to subsidence, erosion or other geological hazards, swamps, marshes or other environmentally sensitive areas;
- (d) storm water management and erosion control;
- (e) in connection with a development, the excavation or filling in of land, the placement of fill or the removal of soil, unless these matters are subject to another enactment of the Province;
- (f) in connection with a development, retention of trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
- (g) studies to be carried out prior to undertaking specified developments or developments in specified areas;
- (h) the staging of development;
- (I) the provision of municipal services and facilities;
- (j) municipal investment for public and private development and the coordination of public programs relating to the economic, social and physical development of the municipality;
- (k) non-conforming uses and structures;
- (l) the subdivision of land;
- (m) the use and conservation of energy, including the height and siting of developments;
- (n) measures for informing, or securing, the views of the public regarding contemplated planning policies and actions or by-laws arising from such policies;
- (o) policies governing
  - (I) land-use by-law matters,
  - (ii) amendment of the land-use by-law,
  - (iii) the acceptance and use of cash-in-lieu of required parking,
  - (iv) the use of development agreements,
  - (v) the establishment of comprehensive development districts,
  - (vi) the use of site-plan approval areas,
  - (vii) the establishment of transportation reserves,
  - (viii) the use of infrastructure charges;
- (p) the regulation or prohibition of development and the use of land in order to carry out an agreement pursuant to the *Aeronautics Act* (Canada);
- (q) any other matter relating to the physical, social or economic environment of the

municipality.

(2) A council shall include policies in the municipal planning strategy on how it intends to review the municipal planning strategy and land-use by-law.

**218** (1) A municipality may

(a) acquire and assemble land for the purpose of carrying out a development consistent with the municipal planning strategy, whether the development is to be undertaken by the municipality or not; or

(b) by agreement with the owners of the land, acquire the right to impose easements or other development restrictions on the lands as if it had acquired the title.

(2) The municipality may subdivide, rearrange and deal with lands described in clause (1)(a) as if it were a private owner and may sell the lands subject to any building restrictions or easements that the council requires to ensure the development is consistent with the municipal planning strategy.

**219** (1) Where a council adopts a municipal planning strategy or a municipal planning strategy amendment that contains policies about regulating land use and development, the council shall, at the same time, adopt a land-use by-law or land-use by-law amendment that shall enable the policies to be carried out.

(2) A council may amend a land-use by-law in accordance with policies contained in the municipal planning strategy.

(3) A council shall not adopt or amend a land-use by-law except to carry out the intent of a municipal planning strategy.

**220** (1) A land-use by-law shall include maps that divide the planning area into zones.

(2) A land-use by-law shall

(a) list permitted or prohibited uses for each zone; and

(b) include provisions that are authorized pursuant to this Act and that are needed to implement the municipal planning strategy.

(3) A land-use by-law may regulate or prohibit development, but development may not be totally prohibited, unless prohibition is permitted pursuant to this Part.

(4) A land-use by-law may

(a) regulate the minimum dimensions for frontage and lot area for any class of use and size of structure;

(b) regulate the maximum floor area of each use to be placed upon a lot, where more than one use is permitted upon a lot;

(c) regulate the maximum area of the ground that a structure may cover;

(d) regulate the height of structures;

(e) regulate the percentage of land that may be built upon;

(f) regulate the size, or other requirements, relating to yards;

(g) regulate the maximum density of dwelling units;

(h) require and regulate the establishment and location of off-street parking and loading facilities;

(I) regulate the location of developments adjacent to pits and quarries;

(j) regulate the period of time for which temporary developments may be permitted;

(k) prescribe the form of an application for a development permit, the content of a development permit, the period of time for which the permit is valid and any provisions for revoking or renewing the permit;

- (l) prescribe the fees for an application to amend a land-use by-law or for entering into a development agreement, site plan or variance.
- (5) Where a municipal planning strategy so provides, a land-use by-law may
- (a) subject to the *Public Highways Act*, regulate or restrict the location, size and number of accesses from a lot to the abutting streets, provided that a lot has access to at least one street;
  - (b) regulate or prohibit the type, number, size and location of signs and sign structures;
  - (c) regulate, require or prohibit fences, walks, outdoor lighting and landscaping;
  - (d) in connection with a development, regulate, or require the planting or retention of, trees and vegetation for the purposes of landscaping, buffering, sedimentation or erosion control;
  - (e) regulate or prohibit the outdoor storage of goods, machinery, vehicles, building materials, waste materials, aggregates and other items and require outdoor storage sites to be screened by landscaping or structures;
  - (f) regulate the location of disposal sites for any waste material;
  - (g) in relation to a development, regulate or prohibit the altering of land levels, the excavation or filling in of land, the placement of fill or the removal of soil unless these matters are regulated by another enactment of the Province;
  - (h) regulate or prohibit the removal of topsoil;
  - (I) regulate the external appearance of structures;
  - (j) set out conditions, including performance standards, to be met by a development before a development permit may be issued;
  - (k) provide for incentive or bonus zoning;
  - (l) prescribe methods for controlling erosion and sedimentation during the construction of a development;
  - (m) regulate or prohibit excavation, filling in, placement of fill or reclamation of land on flood plains identified in the land-use by-law;
  - (n) prohibit development or certain classes of development where, in the opinion of council, the
    - (I) cost of providing municipal wastewater facilities, storm water systems or water systems would be prohibitive,
    - (ii) provision of municipal wastewater facilities, storm water systems or water systems would be premature, or
    - (iii) cost of maintaining municipal streets would be prohibitive;
  - (o) prohibit development within a specified distance of a watercourse;
  - (p) prohibit development on land that
    - (I) is subject to flooding or subsidence,
    - (ii) has steep slopes,
    - (iii) is low-lying, marshy, or unstable,
    - (iv) is otherwise hazardous for development because of its soil conditions, geological conditions, undermining or topography,
    - (v) is known to be contaminated within the meaning of the *Environment Act*, or
    - (vi) is located in an area where development is prohibited by a statement of provincial interest or by an enactment of the Province;
  - (q) regulate or prohibit development and the use of lands in order to carry out an

agreement pursuant to the *Aeronautics Act* (Canada);

(r) permit the development officer to grant variances in parking and loading spaces, ground area and height, floor area occupied by a home-based business and the height and area of a sign.

(6) A municipality may enter into an agreement with the Government of Canada pursuant to the *Aeronautics Act* (Canada).

**225** (1) A council may consider development by development agreement where a municipal planning strategy identifies

- (a) the developments that are subject to a development agreement;
- (b) the area or areas where the developments may be located; and
- (c) the matters that council shall consider prior to the approval of a development agreement.

(2) The land-use by-law shall identify the developments to be considered by development agreement.

**227** (1) A development agreement may contain terms with respect to

- (a) matters that a land-use by-law may contain;
- (b) hours of operation;
- (c) maintenance of the development;
- (d) easements for the construction, maintenance or improvement of watercourses, ditches, land drainage works, storm water systems, wastewater facilities, water systems and other utilities;
- (e) grading or alteration in elevation or contour of the land and provision for the disposal of storm and surface water;
- (f) the construction, in whole or in part, of a storm water system, wastewater facilities and water system;
- (g) the subdivision of land;
- (h) security or performance bonding.

(2) A development agreement may include plans or maps.

(3) A development agreement may

- (a) identify matters which are not substantive or, alternatively, identify matters that are substantive;
- (b) provide for the time when and conditions under which the development agreement may be discharged with or without the concurrence of the property owner;
- (c) provide that upon the completion of the development or phases of the development, the development agreement, or portions of it, may be discharged by council;
- (d) provide that if the development does not commence or is not completed within the time specified in the development agreement, the development agreement or portions of it may be discharged by council without the concurrence of the property owner.

**228**(4) The clerk shall file every development agreement, amendment to a development agreement and discharge of a development agreement in the registry.

**231** (1) Where a municipal planning strategy so provides, a land-use by-law shall identify

- (a) the use that is subject to site-plan approval;
- (b) the area where site-plan approval applies;
- (c) the matters that are subject to site-plan approval;
- (d) those provisions of the land-use by-law that may be varied by a site-plan approval;
- (e) the criteria the development officer shall consider prior to granting site-plan approval;

- (f) the form and content of an application for site-plan approval.
- (2) Site-plan approval shall not apply to development of one or two unit dwellings.
- (3) No development permit shall be issued for a development in a site-plan approval area unless
  - (a) the class of use is exempt from site-plan approval as set out in the land-use by-law and the development is otherwise consistent with the requirements of the land-use by-law; or
  - (b) the development officer has approved an application for site-plan approval and the development is otherwise consistent with the requirements of the land-use by-law.
- (4) A site-plan approval may deal with
  - (a) the location of structures on the lot;
  - (b) the location of off-street loading and parking facilities;
  - (c) the location, number and width of driveway accesses to streets;
  - (d) the type, location and height of walls, fences, hedges, trees, shrubs, ground cover or other landscaping elements necessary to protect and minimize the land-use impact on adjoining lands;
  - (e) the retention of existing vegetation;
  - (f) the location of walkways, including the type of surfacing material, and all other means of pedestrian access;
  - (g) the type and location of outdoor lighting;
  - (h) the location of facilities for the storage of solid waste;
  - (I) the location of easements;
  - (j) the grading or alteration in elevation or contour of the land and provision for the management of storm and surface water;
  - (k) the type, location, number and size of signs or sign structures;
  - (l) provisions for the maintenance of any of the items referred to in this subsection.
- 232** (1) A development officer shall approve an application for site-plan approval, unless the
  - (a) matters subject to site-plan approval do not meet the criteria set out in the land-use by-law; or
  - (b) applicant fails to enter into an undertaking to carry out the terms of the site plan.
- (2) Where a development officer approves or refuses to approve a site plan, the process and notification procedures and the rights of appeal are the same as those that apply when a development officer grants or refuses to grant a variance.
- (3) The council, in hearing an appeal concerning a site-plan approval, may make any decision that the development officer could have made.
- (4) A council may by resolution provide that any person applying for approval of a site plan shall pay the municipality the cost of
  - (a) notifying affected land owners;
  - (b) posting a sign.
- 234** Where the owner of property that is subject to a development agreement or a site plan conveys all or part of the property to a person not a party to the development agreement or site plan, the development agreement or the site plan continues to apply to the property until discharged by council.
- 235** (1) A development officer may grant a variance in one or more of the following land-use by-law requirements:
  - (a) percentage of land that may be built upon;

- (b) size or other requirements relating to yards;
  - (c) lot frontage or lot area, or both, if
    - (I) the lot existed on the effective date of the by-law, or
    - (ii) a variance was granted for the lot at the time of subdivision approval.
- (2) Where a municipal planning strategy and land-use by-law so provide, a development officer may grant a variance in one or more of the following land-use by-law requirements:
- (a) number of parking spaces and loading spaces required;
  - (b) ground area and height of a structure;
  - (c) floor area occupied by a home-based business;
  - (d) height and area of a sign.
- (3) A variance may not be granted where the
- (a) variance violates the intent of the land-use by-law;
  - (b) difficulty experienced is general to properties in the area; or
  - (c) difficulty experienced results from an intentional disregard for the requirements of the land-use by-law.
- 250** (1) An aggrieved person or an applicant may only appeal
- (a) an amendment or refusal to amend a land-use by-law, on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy;
  - (b) the approval or refusal of a development agreement or the approval of an amendment to a development agreement, on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy;
  - (c) the refusal of an amendment to a development agreement, on the grounds that the decision of the council does not reasonably carry out the intent of the municipal planning strategy and the intent of the development agreement.
- (2) An applicant may only appeal a refusal to issue a development permit on the grounds that the decision of the development officer does not comply with the land-use by-law, a development agreement, an order establishing an interim planning area or an order regulating or prohibiting development in an interim planning area.
- (3) An applicant may only appeal a refusal to approve a concept plan or a tentative or final plan of subdivision on the grounds that the decision of the development officer does not comply with the subdivision by-law.
- (4) The Director may only appeal on the grounds that the decision of the council is not reasonably consistent with a statement of provincial interest, an order establishing an interim planning area or an order regulating or prohibiting development in an interim planning area.

## PART IX SUBDIVISION

- 268** (1) An application for subdivision approval shall
- (a) be made to the development officer; and
  - (b) include a plan of subdivision prepared by a Nova Scotia land surveyor.
- (2) Subdivision approval is not required for a subdivision
- (a) where all lots to be created, including the remainder lot, exceed ten hectares in area;
  - (b) resulting from an expropriation;

- (c) resulting from an acquisition or disposition of land by Her Majesty the Queen in right of the Province or in right of Canada or by an agency of Her Majesty;
  - (d) of a cemetery into burial lots;
  - (e) resulting from an acquisition of land by a municipality for municipal purposes;
  - (f) resulting from the disposal, by a municipality, of a street or part of a street;
  - (g) of an abandoned railway right of way;
  - (h) that is a consolidation of a part of an abandoned railway right of way with adjacent land;
  - (I) resulting from a lease of land for twenty years or less, including any renewal provisions of the lease;
  - (j) resulting from a devise of land by will executed on or before January 1, 2000.
- (3) An affidavit of the person making a disposition or encumbrance of land that would create a subdivision that specifies the exemption from the requirement for approval and the facts that entitle the subdivision to the exemption is sufficient proof that approval of the subdivision is not required, unless the person to whom the disposition or encumbrance is made has notice to the contrary.
- 269** (1) Notwithstanding clause 268(1)(b), in a county or district municipality where so provided in the provincial subdivision regulations or a subdivision by-law, an application for subdivision approval may be made by instrument of subdivision rather than by a plan of subdivision.
- (2) This Section applies only where the subdivision does not create a street or private road and results in
- (a) each lot created being at least one hundred thousand square feet in area and having dimensions that would permit it to contain a two hundred and fifty foot diameter circle within its boundaries; or
  - (b) an increase in size of an existing lot by the addition of a part of an abutting lot, if the lot reduced in area complies after the subdivision with the frontage and area requirements set out in the provincial subdivision regulations or municipal subdivision by-law, as the case may be.
- (3) An instrument of subdivision shall be in the form prescribed in the provincial subdivision regulations.
- (4) Except as otherwise provided in this Act, the procedure and requirements for approval of a subdivision apply to subdivision by instrument and a reference to a plan of subdivision includes an instrument of subdivision.
- (5) For greater certainty, no instrument of subdivision that adds or consolidates parcels or areas of land may be approved by a development officer until the development officer is provided with
- (a) executed deeds suitable for registering to effect the addition or consolidation; and
  - (b) the fees for registering the deeds,
- and the development officer shall register the deeds with the approved instrument.
- 270** (1) The Minister shall prescribe provincial subdivision regulations.
- (2) Provincial subdivision regulations shall include
- (a) procedures for preliminary evaluation and tentative and final approvals;
  - (b) requirements for preliminary evaluation and tentative and final approvals;
  - (c) the form of a notice of approval of subdivision;
  - (d) provisions for the repeal of a subdivision; and
  - (e) provisions for the referral of an application to a department or agency of the Province

or of a municipality.

- (3) Provincial subdivision regulations may include
- (a) requirements for access to a lot;
  - (b) requirements respecting the shape of a lot;
  - (c) where they are not prescribed in a land-use by-law, requirements for minimum lot frontage and minimum lot area;
  - (d) provisions allowing a waiver of any requirements of the regulations and the circumstances in which a waiver may be allowed;
  - (e) the fee for the processing of applications for approval or repeal of a subdivision, including recording and filing fees;
  - (f) procedures and requirements for concept plans;
  - (g) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;
  - (h) requirements for private roads;
  - (I) any other matter relating to the division of land.
- (4) At least thirty days before prescribing or amending provincial subdivision regulations, the Minister shall
- (a) send a copy of the proposed regulations to the clerk of every municipality that will be affected by the regulations and invite written comments; and
  - (b) place a notice in a newspaper circulating in the area that will be affected by the regulations stating where the proposed regulations may be inspected and invite written comments.
- (5) Where, on the coming into force of this Act, a municipality has not adopted a subdivision by-law, the municipality is deemed to have adopted the provincial subdivision regulations applicable to the municipality as its subdivision by-law.
- 271** (1) A subdivision by-law applies to the whole of a municipality, but the by-law may contain different requirements for different parts of the municipality.
- (2) A subdivision by-law shall include
- (a) any requirements prescribed by the provincial subdivision regulations applicable to the municipality unless
    - (I) the municipality adopts more stringent requirements, or
    - (ii) the municipal requirements implement the municipal planning strategy;
  - (b) procedures for preliminary evaluation and tentative and final approvals;
  - (c) requirements for preliminary evaluation and tentative and final approvals;
  - (d) the form of a notice of approval of subdivision;
  - (e) provisions for the repeal of a subdivision; and
  - (f) provisions for the referral of an application to a department or agency of the Province or of the municipality.
- (3) A subdivision by-law may include
- (a) requirements for access to a lot;
  - (b) requirements respecting the shape of a lot;
  - (c) where they are not prescribed in a land-use by-law, minimum lot frontage and minimum lot area;
  - (d) provisions allowing a waiver of certain requirements of the by-law and the circumstances in which a waiver may be allowed;

- (e) procedures for the approval of, form of and requirements for approval and registration of instruments of subdivision in a county or district municipality;
  - (f) the fee for the processing of applications for approval or repeal of a subdivision, including recording and filing fees;
  - (g) requirements for the design and construction of streets, private roads, wastewater facilities, storm water systems, water systems and other services;
  - (h) requirements for the transfer to the municipality of useable land, or equivalent value, for park, playground and similar public purposes, provided that the land required to be transferred does not exceed
    - (I) five per cent of the area of the lots shown to be approved on the final plan of subdivision, or
    - (ii) ten per cent of the area of the lots shown to be approved on the final plan of subdivision, if the requirement and the reasons for it are provided for in a municipal planning strategy;
  - (I) procedures and requirements for concept plan approval;
  - (j) the identification of transportation reserves and requirements that lots be designed so as not to impede a transportation reserve;
  - (k) regulate the width of streets or private road rights-of-way on which subdivisions are permitted.
- (4) Where a municipal planning strategy so provides, a subdivision by-law may
- (a) regulate or prohibit new municipal streets in all, or part, of the municipality where, in the opinion of the council, the streets would be premature;
  - (b) regulate or prohibit subdivisions on private roads in all, or part, of the municipality;
  - (c) limit the number of lots that may be created from an area of land in a calendar year.
- (5) A subdivision by-law may require that prior to approval of a final plan of subdivision the applicant shall
- (a) install water systems, wastewater facilities, storm water systems and other services in the area of land being subdivided to the standards prescribed by the municipality;
  - (b) install trees for streets, bus bays, sidewalks and pathways; and
  - (c) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided to the standards prescribed by the municipality, or in the alternative, enter into a bond or other security satisfactory to the municipality to
  - (d) install and provide the water systems, wastewater facilities, storm water systems and other services in the area of land being subdivided to the standards prescribed by the municipality;
  - (e) install the trees along streets, bus bays, sidewalks and pathways required by the by-law; and
  - (f) lay out, construct, grade and pave, in whole or in part, any street in the area of land being subdivided to the standards prescribed by the municipality,
- and in either case provide a bond or other security, satisfactory to the municipality, for the maintenance of the services for a maximum of two years from the date the services are accepted by the municipality as having been installed to the standards prescribed by the municipality.
- (6) A subdivision by-law may require that an applicant have, or permit an applicant to have, a qualified professional certify to the municipality that the services have been designed and installed to the standards prescribed by the municipality, and the municipality may rely on the

certificate so given.

(7) A subdivision by-law may authorize the municipality to require an applicant for subdivision approval to provide water systems, wastewater facilities, storm water systems and other services, including streets, in the area of land being subdivided with a capacity exceeding the anticipated requirements of the applicant's subdivision, if the municipality reimburses the applicant for any costs incurred with respect to the excess capacity.

(8) Any cost to a municipality pursuant to subsection (7) may, at the option of the council, be recovered by the municipality in the same manner as an infrastructure charge or in another manner.

(9) The procedure for the adoption, amendment, repeal, approval and publication of a subdivision by-law is the same as the procedure prescribed for planning documents.

**272** (1) A council may, in the subdivision by-law, require a person applying for final approval of a subdivision to

(a) provide, at no cost to the municipality, easements for the drainage of storm water in those circumstances specified in the subdivision by-law on the land that is proposed to be subdivided or outside that land;

(b) transfer to the municipality land, including easements, that may be necessary to operate and maintain storm water systems;

(c) enter into an agreement to carry out a drainage plan or grading plan required by a subdivision by-law and to provide security satisfactory to the engineer to secure performance of the agreement

(2) A subdivision by-law may

(a) specify standards and requirements for an easement required by the subdivision by-law;

(b) set standards and requirements respecting drainage master plans, drainage plans and grading plans;

(c) prescribe when drainage master plans, drainage plans and grading plans are required.

**273** (1) In this Section, "equivalent value" includes cash or facilities, services or other value in kind, related to parks, playgrounds and similar public purposes or any combination thereof, determined by the municipality to be equivalent to the value of the land as determined by the assessor pursuant to this Section.

(2) Where a subdivision by-law provides for the transfer to the municipality of useable land, the applicant may provide land, equivalent value or a combination of land and equivalent value equal to the amount of the transfer required by the subdivision by-law.

(3) The subdivision by-law may specify the cases in which land only, equivalent value only, or land and equivalent value in a specified combination shall be transferred.

(4) Where equivalent value is to be provided in lieu of transferring land, the amount required shall be determined by an assessor based on the market value of the proposed lots excluding streets, easements and the residue of the land of the applicant, and this valuation may be appealed in the same manner as an assessment.

(5) Where cash is paid in lieu of transferring land, the council shall use the funds for the acquisition of, and capital improvements to, parks, playgrounds and similar public purposes and may use the interest on any funds not expended for those purposes for the operation and maintenance costs of parks, playgrounds and similar public purposes.

(6) A subdivision by-law may include a definition of useable land, which may specify a

minimum area, minimum dimensions, location and a method of establishing a minimum quality of the land.

(7) Useable land does not include any streets or easements conveyed to the municipality.

(8) The area of useable land to be conveyed to the municipality is calculated on the area of the lots to be approved, as shown on the final plan of subdivision, excluding streets and the residue of the land of the applicant.

(9) A development officer shall accept any land offered by an applicant that meets the definition of useable land contained in the subdivision by-law.

(10) An applicant may, with the approval of the council, convey to the municipality an area of land in the municipality of equal value outside the area being subdivided, in lieu of land in the subdivision.

(11) An applicant may, with the approval of the council, provide a bond or other security acceptable to the council for the conveyance to the municipality of land in a future phase of the subdivision rather than conveying land from the approved phase of the subdivision or equivalent value.

(12) Any land conveyed to a municipality pursuant to this Section shall be

(a) free and clear of all encumbrances except an easement or right of way that does not materially interfere with the use and enjoyment of the land; and

(b) used for parks, playgrounds and similar public purposes.

(13) Where council determines that any land transferred pursuant to this Section might no longer be needed for parks, playgrounds or similar public purposes, the council may sell the land, after notifying the owners of lots in the subdivision with respect to which the land was conveyed to the municipality, by notice published in a newspaper circulating in the municipality at least fourteen days prior to the council meeting at which a decision to sell will be made, and the proceeds shall be used for parks, playgrounds and similar public purposes.

**274** (1) A municipal planning strategy may authorize the inclusion of provisions for infrastructure charges in a subdivision by-law.

(2) Infrastructure charges for

(a) new or expanded water systems;

(b) new or expanded wastewater facilities;

(c) new or expanded storm water systems;

(d) new or expanded streets;

(e) upgrading intersections, new traffic signs and signals and new transit bus bays,

may be imposed in a subdivision by-law to recover all, or part, of the capital costs incurred, or anticipated to be incurred, by a municipality by reason of the subdivision and future development of land and infrastructure charges for land, planning, studies, engineering, surveying and legal costs incurred with respect to any of them.

(3) The subdivision by-law shall set out the infrastructure charge areas in which infrastructure charges are to be levied, the purposes for which infrastructure charges are to be levied and the amount of, or method of calculating, each infrastructure charge.

(4) Infrastructure charges may be set at different levels related to the proposed land use, zoning, lot size and number of lots in a subdivision and the anticipated servicing requirements for the infrastructure charge area.

(5) Infrastructure charges may not be imposed if an infrastructure charge has been paid with respect to the area of land, unless further subdivision of the land will impose additional costs on

the municipality.

(6) An infrastructure charge may only be used for the purpose for which it is collected.

(7) Final approval of a subdivision shall not be granted unless the infrastructure charges are paid or the applicant has entered into an agreement with the municipality securing the payment of the infrastructure charges.

(8) Infrastructure charges are a first lien on the land being subdivided and may be collected in the same manner as taxes.

(9) A by-law in effect on the date this Act comes into force that provides for a trunk sewer tax imposed on each lot in a new or existing subdivision is deemed to be a by-law made pursuant to this Section.

**275** (1) An applicant and a municipality may enter into an infrastructure charges agreement that may

- (a) provide for the payment of infrastructure charges in installments;
- (b) permit the applicant to provide certain services or extended services in lieu of the payment of all, or part, of the charge;
- (c) provide for security to ensure that the infrastructure charges are paid when due;
- (d) provide for any other matter necessary or desirable to effect the agreement.

(2) A subdivision by-law may prescribe the circumstances in which an infrastructure charges agreement may be entered into and the general terms that such an agreement shall contain.

**276** An infrastructure charges agreement

- (a) is binding on the land that is subdivided;
- (b) shall be registered in the registry and shall be indexed as a conveyance to and from the owner of the land that is subdivided; and
- (c) is binding on each individual lot in a subdivision, to the extent specified in the agreement.

**277** (1) Within fourteen days of receiving an application for subdivision approval, the development officer shall

- (a) determine if the application is complete; and
- (b) where the application is incomplete, notify the applicant in writing, advising what is required to complete the application.

(2) A completed application for subdivision approval that is neither approved nor refused within ninety days after it is received is deemed to be refused, unless the applicant and the development officer agree to an extension.

(3) The development officer shall inform the applicant of the reasons for a refusal in writing.

**278** (1) An application for subdivision approval shall be approved if the proposed subdivision is in accordance with the enactments in effect at the time a complete application is received by the development officer.

(2) An application for subdivision approval shall be refused where

- (a) the proposed use of the lots being created is not permitted by the land-use by-law;
- (b) the proposed lots do not comply with a requirement of the land-use by-law, unless a variance has been granted with respect to the requirement;
- (c) the proposed lots would require an on-site sewage disposal system and the proposed lots do not comply with requirements established pursuant to the *Environment Act* for on-site sewage disposal systems, unless the owner has been granted an exemption from technical requirements by the Minister of the Environment, or a person designated by that

Minister;

(d) the development officer is made aware of a discrepancy among survey plans that, if either claimant were completely successful in a claim, would result in a lot that cannot be approved;

(e) the proposed access to a street does not meet the requirements of the municipality or the Province;

(f) the proposed subdivision does not meet the requirements of the subdivision by-law and no variance is granted; or

(g) the proposed subdivision is inconsistent with a proposed subdivision by-law or a proposed amendment to a subdivision by-law, for a period of one hundred and fifty days from the publication of the first notice advertising the council's intention to adopt or amend the subdivision by-law.

**279** Where a subdivision by-law specifies minimum lot dimensions or lot area and the by-law so provides, the development officer may approve a plan of subdivision that shows not more than two lots that do not meet these requirements, provided that the lot dimensions and area are not less than ninety per cent of the required minimums.

**280** (1) No plan of subdivision may be approved by a development officer where

(a) the plan shows a street to be owned by the municipality, unless the engineer has approved the design and construction standards of the street, and any intersection with a street, owned by the municipality;

(b) the plan shows a proposed intersection with a street owned by the Province, unless the intersection has been approved by the Minister of Transportation and Public Works, or a person designated by that Minister; or

(c) the Minister of Transportation and Public Works, or a person designated by that Minister, or the engineer advises that the probable volume of traffic from the development will create unsafe conditions for which no remedial arrangements have been made.

(2) The owners of lots shown on a plan of subdivision as abutting on a private right of way are deemed to have an easement over the private right of way for vehicular and pedestrian access to the lot and for the installation of electricity, telephone and other services to the lot.

(3) The new streets and new extensions of streets shown on a plan of subdivision, excluding roads that are shown on the plan as private roads, are vested absolutely in the municipality in which they are situate when the final approved plan is filed in the registry.

**281** A development officer shall approve a plan of subdivision prepared to carry out a development agreement authorized by a municipal planning strategy and land-use by-law, notwithstanding that the plan does not comply with the subdivision by-law, if the plan complies with the terms of the agreement.

**282** (1) No plan of subdivision that adds or consolidates parcels or areas of land may be approved by a development officer until the development officer is provided with

(a) executed deeds suitable for registering to effect the addition or consolidation; and

(b) the fees for registering the deeds.

(2) The development officer shall register the deeds with the approved plan.

**283** Where a tentative plan of subdivision is approved pursuant to the subdivision by-law, a lot or lots shown on the approved tentative plan shall be approved at the final plan of subdivision stage, if

- (a) the lots are substantially the same as shown on the tentative plan;
- (b) any conditions on the approval of the tentative plan have been met;
- (c) the services to be constructed have been constructed and accepted by the municipality or acceptable security has been provided to the municipality to ensure the construction of them; and
- (d) the complete application for final subdivision plan approval is received within two years of the date of the approval of the tentative plan.

**284** The refusal to approve a concept plan or tentative or final plan of subdivision may be appealed to the Board by the applicant in accordance with the procedure for an appeal to the Board set out in Part VIII.

**285** (1) No final plan of subdivision shall be filed in the registry unless the plan has been approved by a development officer in accordance with this Part.

(2) A development officer, or a person acting for a development officer, shall forward the approved final plan of subdivision to be filed in the registry within seven days of its approval.

(3) At the same time as an approved final plan of subdivision is filed in the registry, a notice of the approved final plan of subdivision shall be registered in the registry.

(4) A notice of the approved final plan of subdivision shall be indexed as a conveyance from the person whose land is divided.

(5) Where an approved final plan of subdivision effects an addition or consolidation, the notice of the plan shall be indexed as a conveyance from the person whose land is divided and from the person whose land is enlarged as a result of the addition or consolidation.

**286** Where a lot to be created by a plan of subdivision crosses a municipal boundary, an approval is required from each municipality in which the proposed lot is located.

**287** (1) A subdivision of land takes effect when the plan of subdivision is filed in the registry.

(2) No deed, mortgage, lease or other instrument which would result in the subdivision of land for which subdivision approval is required has effect until the subdivision is approved and the plan is filed.

(3) A deed, mortgage, lease or other instrument, which purports to subdivide land and is executed before the approval and the filing of a plan of subdivision in the registry in accordance with this Part, is deemed

(a) to have been executed immediately after the filing of the plan of subdivision; and

(b) where the deed, mortgage, lease or other instrument has been registered in the registry, to have been duly registered at the time of the actual registration.

(4) Where two or more deeds, mortgages, leases or other instruments are deemed to have been executed at the same time, they are deemed to have been executed in the same order as they were actually executed.

(5) Where a deed, mortgage, lease or other instrument is made which results in the subdivision of land in accordance with a plan or instrument of subdivision duly approved and filed in the registry, the amendment of the plan or instrument does not restrict the right of the owner, mortgagee, lessee or other holder to execute other deeds, mortgages, leases or instruments in which the property is described as it is described in the original deed, mortgage, lease or other instrument.

**288** (1) An approved final plan of subdivision may be amended, provided the amendment does not materially alter the boundaries of a lot created by the approved plan.

(2) The provisions of this Act that apply to an approved final plan of subdivision apply to an

amended plan of subdivision, except the date of the approval of the amended plan is the same as that of the approved final plan of subdivision.

**289** An instrument of subdivision approved pursuant to this Act or the former *Planning Act* may be amended or repealed in the same manner, and with the same effect, as an approved final plan of subdivision.

**290** Nothing in this Act prevents an application for approval of or the approval of, a subdivision for which no approval is required.

**291** (1) A failure to comply with

(a) this Act; or

(b) the former *Planning Act*,

or a regulation or by-law made thereunder does not affect the creation of a title or interest in real property conveyed, or purported to have been conveyed, by deed, lease, mortgage or other instrument before April 16, 1987.

(2) Subsection (1) does not affect the rights acquired by a person from a judgment or order of a court given or made in litigation or proceedings commenced before April 16, 1987.

**292** A subdivision by-law adopted pursuant to a former *Planning Act* is a subdivision by-law within the meaning of this Act, to the extent that it is consistent with this Act.

## PART XII STREETS AND HIGHWAYS

**307** In this Part, "street" means a public street, highway, road, land, sidewalk, thoroughfare, bridge, square and the curbs, gutters, culverts and retaining walls in connection therewith, but does not include bridges vested in the Halifax-Dartmouth Bridge Commission and streets vested in Her Majesty in right of the Province.

**308** (1) All streets in a municipality are vested absolutely in the municipality.

(2) In so far as is consistent with their use by the public, a council has full control over the streets in the municipality.

(3) No road, or allowance for a road, becomes a street until the council formally accepts the road or allowance, or the road or allowance is vested in the municipality according to law.

(4) Possession, occupation, use or obstruction of a street, or a part of a street, does not give and never has given any estate, right or title to the street.

**312**(2) When a street is laid out, opened or expanded, a survey plan shall be filed in the registry.

**314** (1) Where any part of a street, other than the travelled way, has been built upon and it is determined that the encroachment was made in error, the engineer may permit, in accordance with any by-law made pursuant to subsection (2), the encroachment to continue until such time as the building or structure encroaching upon the street is taken down or destroyed.

(2) A council may, by by-law, regulate encroachments upon, under or over streets, including stipulating the period of time an encroachment may remain and the entering into of agreements, including terms and conditions, for particular encroachments.

**315** (1) The council may, by policy, permanently close any street or part of a street and the council shall hold a public hearing before passing the policy.

(2) The council shall give notice of its intent to close the street by advertisement in a newspaper circulating in the municipality.

(3) The notice shall set out the time and place of the public hearing at which those in favour or

opposed to the street closing will be heard and describe the street to be closed sufficiently to identify it.

(4) A copy of the notice shall be mailed to the Minister of Transportation and Public Works before the public hearing.

(5) A copy of the policy passed by the council, certified by the clerk under the seal of the municipality, incorporating a survey or a metes and bounds description of the street that is closed, shall be filed in the registry and with the Minister of Transportation and Public Works.

(6) Upon filing the policy in the registry, all rights of public user in the land described in the policy are forever extinguished and the municipality may sell and convey the land or may subsequently reopen the land as a street in the manner required by this Act.

## PART XVI BOUNDARIES

**354** (1) The boundaries of the Cape Breton Regional Municipality are the boundaries of the County of Cape Breton, unless altered by the Board pursuant to this Act.

(2) The boundaries of the Halifax Regional Municipality are the boundaries of the County of Halifax, unless altered by the Board pursuant to this Act.

(3) The boundaries of the Region of Queens Municipality are the boundaries of the County of Queens, unless altered by the Board pursuant to this Act.

(4) The boundaries of a regional municipality incorporated pursuant to this Act are the boundaries set out in the order establishing the regional municipality, unless altered by the Board pursuant to this Act.

(5) The boundaries of a county or district municipality continue to be as they were on July 1, 1996, unless altered by the Board pursuant to this Act or a regional municipality is incorporated that includes the county or district municipality.

(6) The boundaries of a town continue as they were on July 1, 1996, or in a subsequent order incorporating the town, unless altered by the Board pursuant to this Act or a regional municipality is incorporated that includes the town.

(7) The boundaries, names and numbers of the polling districts in a municipality continue to be as they were on July 1, 1996, unless altered by the Board pursuant to this Act.

**355** All docks, quays, wharves, slips, breakwaters and other structures connected with the shore of any part of a municipality are within the boundaries of the municipality.

**366** (1) When municipalities are amalgamated, the policies and by-laws in effect in each continue in force in the area of each former municipality until repealed by the council.

(2) When an area is annexed to another municipality, the policies and by-laws in the annexing municipality apply to the area except for the municipal planning strategy and land-use and subdivision by-laws, which remain in force in the annexed area until repealed by the council of the annexing municipality.

**367** (1) Unless the Board otherwise orders

(a) the real property of a municipality situate in an area annexed to another municipality is vested in the annexing municipality;

(b) taxes imposed with respect to the ownership or occupation of property in an area annexed to another municipality and unpaid at the date of an annexation belong to the

annexing municipality and may be collected as if they had been imposed by the annexing municipality;

(c) where the whole of a municipality is annexed to a municipality or municipalities are amalgamated, all of the assets and liabilities of the annexed or former municipalities are vested in the annexing or amalgamated municipality, and the annexing or amalgamated municipality stands in the place and stead of the annexed or former municipalities.

(2) The annexing or amalgamated municipality has the same rights with respect to the collection of taxes imposed by the annexed or former municipalities as if the taxes had been imposed by the annexing or amalgamated municipality.

## PART XVII MUNICIPAL INCORPORATION

**382** (1) A reference in an enactment, deed, will or other document to a municipal government is and is deemed to be a reference to the regional municipality.

(2) A reference in an enactment, deed, will or other document to the mayor, warden or chairman of a municipal government is and is deemed to be a reference to the mayor of the regional municipality.

(3) The by-laws, orders, policies and resolutions in force in a municipal government immediately prior to the incorporation of a regional municipality continue in force in the area over which that municipal government had jurisdiction to the extent that they are authorized by this or another Act, until amended or repealed by the council of the regional municipality.

**389** (1) An order of the Board incorporating a town is conclusive evidence that the town has been duly incorporated.

(2) A copy of an order incorporating a town shall be published in the Royal Gazette as a regulation, and shall be filed and advertised as directed by the Board.

**390** A town may not be incorporated in a regional municipality or in a town.

**391** (1) When a town is incorporated, the area within its boundaries ceases to be part of the county or district municipality from which it was incorporated.

(2) Unless the Board otherwise orders, when a town is incorporated, a village or service commission having authority in the area incorporated as a town is dissolved and its assets and liabilities are vested in the town.

**392** The by-laws of the county or district municipality from which a town is incorporated continue in force in the town for two years after the date of incorporation unless earlier repealed by the council of the town or extended by order of the Minister on request by the town council for a further period of two years.

**400** (1) Where an order of the Board results in the dissolved town being one additional polling district, until the next regular election of councillors, the mayor of the town dissolved is the councillor for the district.

(2) Where an order of the Board results in the dissolved town being more than one additional ward or polling district, a special election shall be conducted by the returning officer of the municipality to which the dissolved town has been annexed in accordance with the *Municipal Elections Act*.

(3) Where a town is dissolved, the list of electors for the town continues to be the list of electors for the polling district until a new list of electors is prepared pursuant to the *Municipal Elections Act*.

*Act.*

(4) When a town is dissolved, the policies and by-laws in effect continue in force in the area of the former town until repealed by the council or, to the extent it has jurisdiction, any village commission that may replace the former town council.

**401** Where a town is dissolved

(a) the Governor in Council may assume liability for the payment of all or any part of any debt incurred by the town for streets in the town; and

(b) the Minister of Transportation and Public Works shall determine which of the streets in the town are municipal highways and shall advise the municipality to which the town has been annexed.

## PART XVIII VILLAGES

**406** (1) A village has perpetual succession and shall have a common seal.

(2) The seal shall be kept by the clerk of the village.

(3) A deed or document to which a village is a party shall be authenticated by the seal of the village and the chair and the clerk shall, when duly authorized, sign the deed or document and affix the seal.

**424** A village has the same powers of expropriation as a municipality, and shall follow the same procedure.

**447** (1) An application to change the boundaries of a village may be made to the Board by

(a) the village commission; or

(b) an owner of real property in the area proposed by the owner to be added to, or taken from, the village.

(7) The Board may, after inquiring into and taking into account

(a) the necessity or expediency of the order applied for;

(b) the financial position and obligations of the village and municipalities affected;

(c) the burden of taxation upon the ratepayers of the village and the area proposed to be added to, or taken from, the village; and

(d) all other matters that in the opinion of the Board are relevant, order that the boundaries of the village be changed.

(8) An order made pursuant to subsection (7) shall

(a) define the boundaries of the village, with any alterations made as a result of the hearing;

(b) state when the new boundaries are to be effective; and

(c) contain such directions respecting the implementation of the new boundaries as the Board sees fit.

**448** (1) The Minister may, by order, dissolve any village upon the request of the village commission authorized by a meeting of the electors of the village.

(7) Upon the making of an order dissolving the village, the village ceases to be a body corporate and this Act no longer applies to it.

(8) All assets and liabilities, including outstanding debentures, of the former village are vested in the municipality in which the former village is located and the municipality may transfer, free of cost, property of a village that is dissolved to a body incorporated to provide community services

in the area served by the dissolved village.

PART XX  
FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

**461** In this Part,

- (a) "background information" means
- (I) any factual material,
  - (ii) a public opinion poll,
  - (iii) a statistical survey,
  - (iv) an appraisal,
  - (v) an economic forecast,
  - (vi) an environmental-impact statement or similar information,
  - (vii) a final report or final audit on the performance or efficiency of a municipality or on any of its programs or policies,
  - (viii) a consumer test report or a report of a test carried out on a product to test equipment of a municipality,
  - (ix) a feasibility or technical study, including a cost estimate, relating to a policy or project of a municipality,
  - (x) a report on the results of field research undertaken before a policy proposal is formulated,
  - (xi) a report of an external task force, advisory board or similar body that has been established to consider any matter and make reports or recommendations to a municipality, or
  - (xii) a plan or proposal to establish a new program or to change a program, if the plan or proposal has been approved or rejected by the council;
- (b) "employee" in relation to a municipality, includes a person retained under an employment contract to perform services for the municipality;
- (c) "law enforcement" means
- (I) policing, including criminal-intelligence operations,
  - (ii) investigations that lead, or could lead, to a penalty or sanction being imposed, and
  - (iii) proceedings that lead, or could lead, to a penalty or sanction being imposed;
- (d) "municipal body" means a committee, community council, agency, authority, board or commission, whether incorporated or not
- (I) a majority of the members of which are appointed by, or
  - (ii) which is under the authority of,
- one or more municipalities;
- (e) "municipality" means a regional municipality, town, county or district municipality, village, service commission or municipal body;
- (f) "personal information" means recorded information about an identifiable individual, including
- (I) the individual's name, address or telephone number,
  - (ii) the individual's race, national or ethnic origin, colour, or religious or political

- beliefs or associations,
- (iii) the individual's age, sex, sexual orientation, marital status or family status,
  - (iv) an identifying number, symbol or other particular assigned to the individual,
  - (v) the individual's fingerprints, blood type or inheritable characteristics,
  - (vi) information about the individual's health-care history, including a physical or mental disability,
  - (vii) information about the individual's educational, financial, criminal or employment history,
  - (viii) anyone else's opinions about the individual, and
  - (ix) the individual's personal views or opinions, except if they are about someone else;
- (g) "prescribed" means prescribed by the regulations made pursuant to the *Freedom of Information and Protection of Privacy Act* or this Part;
- (h) "record" includes books, documents, maps, drawings, photographs, letters, vouchers, papers and any other thing on which information is recorded or stored by graphic, electronic, mechanical or other means, but does not include a computer program or any other mechanism that produces records;
- (I) "responsible officer" means, in the case of a
- (I) regional municipality, town or county or district municipality, the chief administrative officer, if one has been appointed or, if one has not been appointed, the clerk,
  - (ii) village or service commission, the clerk,
  - (iii) municipal body
    - (A) a majority of the members of which are appointed by one municipality, the responsible officer for the appointing municipality,
    - (B) which is under the authority of one municipality, the responsible officer for that municipality, or
    - (C) which is not described in paragraph (A) or (B), the chair or presiding officer;
- (j) "review officer" means the review officer appointed by the Governor in Council pursuant to the *Freedom of Information and Protection of Privacy Act*;
- (k) "third party", in relation to a request for access to a record or for correction of personal information, means any person, group of persons or organization other than
- (I) the person who made the request,
  - (ii) the municipality to which the request is made, or
  - (iii) a municipal body, a majority of the members of which are appointed by, or which is under the authority of, the municipality to which the request is made;
- (l) "trade secret" means information, including a formula, pattern, compilation, program, device, product, method, technique or process, that
- (I) is used, or may be used, in business or for any commercial advantage,
  - (ii) derives independent economic value, actual or potential, from not being generally known to the public or to other persons who can obtain economic value from its disclosure or use,
  - (iii) is the subject of reasonable efforts to prevent it from becoming generally known, and

(iv) the disclosure of which would result in harm or improper benefit.

**462** The purpose of this Part is to

(a) ensure that municipalities are fully accountable to the public by

(I) giving the public a right of access to records,

**463** (1) This Part applies to all records in the custody or under the control of a municipality.

(2) Notwithstanding subsection (1), this Part does not apply to

(a) published material or material that is available for purchase by the public;

(b) material that is a matter of public record;

(c) a note, communication or draft decision of a person acting in a judicial or quasi-judicial capacity;

(d) a record of a question that is to be used on an examination or test;

(e) material placed in the archives of a municipality by or for a person, agency or other organization other than the municipality; or

(f) a record relating to a prosecution, if all proceedings in respect of the prosecution have not been completed.

**465** (1) A person has a right of access to any record in the custody, or under the control, of a municipality upon making a request as provided in this Part.

(2) The right of access to a record does not extend to information exempted from disclosure pursuant to this Part but, if that information can reasonably be severed from the record, an applicant has the right of access to the remainder of the record.

(3) Nothing in this Part restricts access to information provided by custom or practice prior to the effective date of this Part.

## PART XXI GENERAL

**504**(4) If a municipality receives a certification or representation by an engineer, architect, surveyor or other person held out to have expertise respecting the thing being certified or represented, the municipality and its officers and employees are not liable for any loss or damage caused by the negligence of the person so certifying or representing.

**508** Where no penalty is specified for the violation of this Act, a person who contravenes the provision is guilty of an offence and is liable, on summary conviction, to a penalty of not less than one hundred dollars and not more than five thousand dollars and in default of payment, to imprisonment for a period of not more than ninety days.

**512** (1) For the purpose of the *Limitation of Actions Act*, the limitation period for an action or proceeding against a municipality or village, the council, a council member, a village commissioner, an officer or employee of a municipality or village or against any person acting under the authority of any of them, is twelve months.

## PART XXIII TRANSITIONAL AND REPEAL

**538** The by-laws, orders, policies and resolutions in force in a municipality or village immediately prior to the coming into force of this Act continue in force to the extent that they are authorized by this Act or another Act of the Legislature until amended or repealed.

**544** A reference in an enactment to a municipality, as defined in the *Municipal Affairs Act*, is a reference to a municipality, village or service commission as defined in this Act.

## **Notaries and Commissioners Act.**

CHAPTER 312  
OF THE REVISED STATUTES, 1989

### **Powers of notary public**

**3** Every such notary public shall have the power of drawing, passing, keeping and issuing all deeds and contracts, charter-parties and other mercantile transactions in this Province, and also of attesting all commercial instruments brought before him for public protestation, and otherwise of acting as is usual in the office of notary, and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the said calling of notary during pleasure. R.S., c. 312, s. 3.

## **Nova Scotia Power Privatization Act**

CHAPTER 8  
OF THE  
ACTS OF 1992  
**amended** 1994, c. 9, s. 24; 1994, c. 39

### **Expropriation by Company**

**19** (1) The Company may expropriate any land which the Company deems necessary or useful for the attainment of the object of the Company referred to in clause (a) of subsection (1) of Section 8.

### **Vesting of land**

(2) Upon a plan and description of any land so expropriated, signed by the Chair or President, being deposited in the office of the registrar of deeds for the registration district in which the land is situated, such land shall thereupon become and remain vested in the Company.

### **Expropriation Act**

(3) The Expropriation Act applies to any such expropriation and the Company shall be and is deemed to be the expropriating authority for the purposes of the Expropriation Act.

### **Interpretation of Section**

**22** (2) The Planning Act, the provisions of any Provincial land-use policies or regulations, and Provincial subdivision regulations, and any municipal planning strategy, land-use by-law or subdivision by-law do not apply where a development or subdivision is made for the purpose of a transmission line, substation or electric distribution system.

### **Deemed effect of existing instruments**

**25** (1) Any instrument within the meaning of the Registry Act heretofore executed purporting to convey to the Corporation, Nova Scotia Light and Power Company, Limited or Eastern Light &

Power Company Limited a fee simple estate is deemed to have vested in the Corporation, Nova Scotia Light and Power Company, Limited or Eastern Light & Power Company, Limited, as the case may be, and their successors and assigns, a full, absolute and indefeasible estate of inheritance in fee simple, subject only to any mortgages, judgments or easement registered on title against such estate.

### **Rural Electrification Act repealed**

**36** (1) Chapter 405 of the Revised Statutes, 1989, the Rural Electrification Act, is repealed.

## **Occupational Health and Safety Act**

### CHAPTER 7 OF THE ACTS OF 1996

### **Internal Responsibility System**

**2** The foundation of this Act is the Internal Responsibility System which

- (a) is based on the principle that
  - (I) employers, contractors, constructors, employees and self-employed persons at a workplace,
  - and
  - (ii) the owner of a workplace, a supplier of goods or provider of an occupational health or safety service to a workplace or an architect or professional engineer, all of whom can affect the health and safety of persons at the workplace,
 share the responsibility for the health and safety of persons at the workplace;
- (b) assumes that the primary responsibility for creating and maintaining a safe and healthy workplace should be that of each of these parties, to the extent of each party's authority and ability to do so;
- (c) includes a framework for participation, transfer of information and refusal of unsafe work, all of which are necessary for the parties to carry out their responsibilities pursuant to this Act and the regulations; and
- (d) is supplemented by the role of the Occupational Health and Safety Division of the Department of Labour, which is not to assume responsibility for creating and maintaining safe and healthy workplaces, but to establish and clarify the responsibilities of the parties under the law, to support them in carrying out their responsibilities and to intervene appropriately when those responsibilities are not carried out. 1996, c. 7, s. 2.

### **Interpretation**

**3** In this Act,

- (a) "aggrieved person" means an employer, constructor, contractor, employee, self-employed person, owner, supplier, provider of an occupational health or safety service, architect, engineer or union at a workplace who is directly affected by an order or decision;
- (b) "analyst" means a person appointed as an analyst by the Minister pursuant to this Act;
- (c) "appeal panel" means an appeal panel designated pursuant to this Act;
- (d) "committee" means a joint occupational health and safety committee established

pursuant to this Act;

(e) "compliance notice" means a response, in writing, to an order of an officer, describing the extent to which the person against whom the order was made has complied with each item identified in the order;

(f) "constructor" means a person who contracts for work on a project or who undertakes work on a project himself or herself;

(g) "contractor" means a person who contracts for work to be performed at the premises of the person contracting to have the work performed, but does not include a dependent contractor or a constructor;

(h) "contracts for work" includes contracting to perform work and contracting to have work performed;

(I) "Council" means the Occupational Health and Safety Advisory Council established pursuant to this Act;

(j) "dependent contractor" means a person, whether or not employed under a contract of employment and whether or not furnishing the person's own tools, vehicles, equipment, machinery, material or any other thing, who performs work or services for another on such terms and conditions that the person is

(I) in a position of economic dependence upon the other,

(ii) under an obligation to perform duties mainly for the other, and

(iii) in a relationship with the other more closely resembling that of an employee than an independent contractor;

(k) "Deputy Minister of Labour" includes a person designated by the Deputy Minister of Labour to act in the stead of the Deputy Minister;

(l) "Director" means the Executive Director of Occupational Health and Safety or any person designated by the Director pursuant to this Act to act on behalf of the Director;

(m) "Director of Labour Standards" means the Director of Labour Standards under the Labour Standards Code;

(n) "Division" means the Occupational Health and Safety Division of the Department of Labour;

(o) "employee" means a person who is employed to do work and includes a dependent contractor;

(p) "employer" means a person who employs one or more employees or contracts for the services of one or more employees, and includes a constructor, contractor or subcontractor;

(q) "former Act" means Chapter 320 of the Revised Statutes, 1989, the Occupational Health and Safety Act;

(r) "Labour Standards Tribunal" means the Labour Standards Tribunal under the Labour Standards Code;

(s) "Minister" means the Minister of Labour;

(t) "occupation" means any employment, business, calling or pursuit;

(u) "officer" means an occupational health and safety officer appointed pursuant to this Act and includes the Director;

(v) "owner" includes a trustee, receiver, mortgagee in possession, tenant, lessee or occupier of lands or premises used as a workplace and a person who acts for, or on behalf of, an owner as an agent or delegate;

- (w) "police officer" means
- (I) a member of the Royal Canadian Mounted Police, or
  - (ii) a member or chief officer of a police force appointed pursuant to Section 14 or 17 of the Police Act;
- (x) "policy" means an occupational health and safety policy made pursuant to this Act;
- (y) "practicable" means possible, given current knowledge, technology and invention;
- (z) "program" means an occupational health and safety program required pursuant to this Act, unless the context otherwise requires;
- (aa) "project" means a construction project, and includes
- (I) the construction, erection, excavation, renovation, repair, alteration or demolition of any structure, building, tunnel or work and the preparatory work of land clearing or earth moving, and
  - (ii) work of any nature or kind designated by the Director as a project;
- (ab) "reasonably practicable" means practicable unless the person on whom a duty is placed can show that there is a gross disproportion between the benefit of the duty and the cost, in time, trouble and money, of the measures to secure the duty;
- (ac) "regularly employed" includes seasonal employment with a predictably recurring period of employment that exceeds four weeks, unless otherwise established by regulation or ordered by an officer;
- (ad) "representative" means a health and safety representative selected pursuant to this Act;
- (ae) "self-employed person" means a person who is engaged in an occupation on that person's own behalf but does not include a dependent contractor;
- (af) "supplier" means a person who manufactures, supplies, sells, leases, distributes or installs any tool, equipment, machine or device or any biological, chemical or physical agent to be used by an employee;
- (ag) "union" includes a trade union as defined in the Trade Union Act that has the status of bargaining agent under that Act in respect of any bargaining unit at a workplace, and includes an organization representing employees where the organization has exclusive bargaining rights under any other Act in respect of the employees;
- (ah) "workplace" means any place where an employee is or is likely to be engaged in any occupation and includes any vehicle or mobile equipment used or likely to be used by an employee in an occupation. 1996, c. 7, s. 3.

### **Application of Act**

**4** (1) This Act binds Her Majesty in right of the Province.

(2) This Act applies to

- (a) every agency of the Government of the Province; and
- (b) all matters within the legislative jurisdiction of the Province.

(3) To the extent that Her Majesty in right of Canada submits, this Act binds Her Majesty in right of Canada, every agency of the Government of Canada and every other person whose workplace health and safety standards are ordinarily within the legislative jurisdiction of the Parliament of Canada. 1996, c. 7, s. 4.

### **Employers' precautions and duties**

**13** (1) Every employer shall take every precaution that is reasonable in the circumstances to

- (a) ensure the health and safety of persons at or near the workplace;

- (b) provide and maintain equipment, machines, materials or things that are properly equipped with safety devices;
- (c) provide such information, instruction, training, supervision and facilities as are necessary to the health or safety of the employees;
- (d) ensure that the employees, and particularly the supervisors and foremen, are made familiar with any health or safety hazards that may be met by them at the workplace;
- (e) ensure that the employees are made familiar with the proper use of all devices, equipment and clothing required for their protection; and
- (f) conduct the employer's undertaking so that employees are not exposed to health or safety hazards as a result of the undertaking.

(2) Every employer shall

- (a) consult and co-operate with the joint occupational health and safety committee, where such a committee has been established at the workplace, or the health and safety representative, where one has been selected at the workplace;
- (b) co-operate with any person performing a duty imposed or exercising a power conferred by this Act or the regulations;
- (c) provide such additional training of committee members as may be prescribed by the regulations;
- (d) comply with this Act and the regulations and ensure that employees at the workplace comply with this Act and the regulations; and
- (e) where an occupational health and safety policy or occupational health and safety program is required pursuant to this Act or the regulations, establish the policy or program. 1996, c. 7, s. 13.

**Precautions to be taken by contractors**

**14** Every contractor shall take every precaution that is reasonable in the circumstances to ensure

- (a) the health and safety of persons at or near a workplace;
- (b) that the activities of the employers and self-employed persons at the workplace are co-ordinated;
- (c) communication between the employers and self-employed persons at the workplace of information necessary to the health and safety of persons at the workplace;
- (d) that the measures and procedures prescribed pursuant to this Act and the regulations are carried out at the workplace; and
- (e) that every employee, self-employed person and employer performing work at the workplace complies with this Act and the regulations. 1996, c. 7, s. 14.

**Precautions to be taken by constructors**

**15** Every constructor shall take every precaution that is reasonable in the circumstances to ensure

- (a) the health and safety of persons at or near a project;
- (b) that the activities of the employers and self-employed persons at the project are co-ordinated;
- (c) communication between the employers and self-employed persons at the project of information necessary to the health and safety of persons at the project, and facilitate communication with any committee or representative required for the project pursuant to this Act or the regulations;
- (d) that the measures and procedures prescribed under this Act and the regulations are carried out on the project; and

(e) that every employee, self-employed person and employer performing work in respect of the project complies with this Act and the regulations. 1996, c. 7, s. 15.

### **Employees' precautions and duties**

**17** (1) Every employee, while at work, shall

- (a) take every reasonable precaution in the circumstances to protect the employee's own health and safety and that of other persons at or near the workplace;
- (b) co-operate with the employer and with the employee's fellow employees to protect the employee's own health and safety and that of other persons at or near the workplace;
- (c) take every reasonable precaution in the circumstances to ensure that protective devices, equipment or clothing required by the employer, this Act or the regulations are used or worn;
- (d) consult and co-operate with the joint occupational health and safety committee, where such a committee has been established at the workplace, or the health and safety representative, where one has been selected at the workplace;
- (e) co-operate with any person performing a duty or exercising a power conferred by this Act or the regulations; and
- (f) comply with this Act and the regulations.

(2) Where an employee believes that any condition, device, equipment, machine, material or thing or any aspect of the workplace is or may be dangerous to the employee's health or safety or that of any other person at the workplace, the employee shall

- (a) immediately report it to a supervisor;
- (b) where the matter is not remedied to the employee's satisfaction, report it to the committee or the representative, if any; and
- (c) where the matter is not remedied to the employee's satisfaction after the employee reports in accordance with clauses (a) and (b), report it to the Division. 1996, c. 7, s. 17.

### **Self-employed persons' precautions and duties**

**18** Every self-employed person shall

- (a) take every reasonable precaution in the circumstances to protect the self-employed person's own health and safety and that of other persons who may be affected by the self-employed person's undertaking;
- (b) co-operate with any employer, joint occupational health and safety committee or health and safety representative that may be found at a place at which the self-employed person conducts an undertaking, to protect the self-employed person's own health and safety and that of other persons who may be affected by the undertaking;
- (c) co-operate with any person performing a duty or exercising a power conferred by this Act or the regulations; and
- (d) comply with this Act and the regulations. 1996, c. 7, s. 18.

## **OCCUPATIONAL HEALTH AND SAFETY POLICY**

### **Requirement for policy**

**27** (1) Where

- (a) five or more employees are regularly employed by an employer other than a constructor or contractor;
- (b) five or more employees are regularly employed directly by a constructor or contractor, not including employees for whose services the constructor or contractor has

contracted;

(c) the regulations require an occupational health and safety policy; or

(d) an officer so orders,

the employer shall prepare and review, at least annually, a written occupational health and safety policy, in consultation with the committee or representative, if any.

(2) Where this Act or the regulations do not require there to be a committee at a workplace, consultation on the development of the policy shall be carried out by the employer and shall include discussion of the proposed policy at one or more workplace health and safety meetings involving the employees.

(3) The policy shall express the employer's commitment to occupational health and safety and shall include

(a) the reasons for the employer's commitment to health and safety;

(b) the commitment of the employer to co-operate with the employees in pursuing occupational health and safety; and

(c) the responsibilities of the employer, supervisors and other employees in fulfilling the commitment required pursuant to clause (b). 1996, c. 7, s. 27.

## OCCUPATIONAL HEALTH AND SAFETY PROGRAM

### **Requirement for program**

**28** (1) Where

(a) twenty or more employees are regularly employed by an employer other than a constructor or contractor;

(b) twenty or more employees are regularly employed directly by a constructor or contractor, not including employees for whose services the constructor or contractor has contracted; or

(c) the regulations require an occupational health and safety program,

the employer shall establish and maintain a written occupational health and safety program, in consultation with the committee or representative, if any, that is adapted to the circumstances of the organization for the purpose of implementing the employer's policy, this Act and the regulations.

(2) The program shall include

(a) provision for the training and supervision of employees in matters necessary to their health and safety and the health and safety of other persons at the workplace;

(b) provision for the preparation of written work procedures required to implement safe and healthy work practices, including those required pursuant to this Act, the regulations or by order of an officer, and identification of the types of work for which the procedures are required at the employer's workplace;

(c) provision for the establishment and continued operation of a committee required pursuant to this Act, including maintenance of records of membership, rules of procedure, access to a level of management with authority to resolve health and safety matters and any information required under this Act or the regulations to be maintained in relation to a committee;

(d) provision for the selection and functions of a representative where required pursuant to this Act, including provision for access by the representative to a level of management with authority to resolve health and safety matters;

- (e) a hazard identification system that includes
    - (I) evaluation of the workplace to identify potential hazards,
    - (ii) procedures and schedules for regular inspections,
    - (iii) procedures for ensuring the reporting of hazards and the accountability of persons responsible for the correction of hazards, and
    - (iv) identification of the circumstances where hazards must be reported by the employer to the committee or representative, if any, and the procedures for doing so;
  - (f) a system for workplace occupational health and safety monitoring, prompt follow-up and control of identified hazards;
  - (g) a system for the prompt investigation of hazardous occurrences to determine their causes and the actions needed to prevent recurrences;
  - (h) maintenance of records and statistics, including reports of occupational health and safety inspections and occupational health and safety investigations, with provision for making them available to persons entitled to receive them pursuant to this Act; and
  - (I) provision for monitoring the implementation and effectiveness of the program.
- (3) The employer shall make available a copy of the program
- (a) to the committee or representative, if any;
  - and
  - (b) on request, to an employee at the workplace. 1996, c. 7, s. 28.

**Right to refuse work and consequences of refusal**

- 43** (1) Any employee may refuse to do any act at the employee's place of employment where the employee has reasonable grounds for believing that the act is likely to endanger the employee's health or safety or the health or safety of any other person until
- (a) the employer has taken remedial action to the satisfaction of the employee;
  - (b) the committee, if any, has investigated the matter and unanimously advised the employee to return to work; or
  - (c) an officer has investigated the matter and has advised the employee to return to work.
- (2) Where an employee exercises the employee's right to refuse to work pursuant to subsection (1), the employee shall
- (a) immediately report it to a supervisor;
  - (b) where the matter is not remedied to the employee's satisfaction, report it to the committee or the representative, if any; and
  - (c) where the matter is not remedied to the employee's satisfaction after the employee has reported pursuant to clauses (a) and (b), report it to the Division.
- (3) At the option of the employee, the employee who refuses to do any act pursuant to subsection (1) may accompany an officer or the committee or representative, if any, on a physical inspection of the workplace, or part thereof, being carried out for the purpose of ensuring others understand the reasons for the refusal.
- (4) Notwithstanding subsection 50(8), an employee who accompanies an officer, the committee or a representative, as provided in subsection (3), shall be compensated in accordance with subsection (7), but the compensation shall not exceed that which would otherwise have been payable for the employee's regular or scheduled working hours.
- (5) Subject to any applicable collective agreement, and subsection (3), where an employee refuses to do work pursuant to subsection (1), the employer may reassign the employee to other

work and the employee shall accept the reassignment until the employee is able to return to work pursuant to subsection (1).

(6) Where an employee is reassigned to other work pursuant to subsection (5), the employer shall pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued in the employee's normal work.

(7) Where an employee has refused to work pursuant to subsection (1) and has not been reassigned to other work pursuant to subsection (5), the employer shall, until clause (1)(a), (b) or (c) is met, pay the employee the same wages or salary and grant the employee the same benefits as would have been received had the employee continued to work.

(8) A reassignment of work pursuant to subsection (5) is not discriminatory action pursuant to Section 45.

(9) An employee may not, pursuant to this Section, refuse to use or operate a machine or thing or to work in a place where

(a) the refusal puts the life, health or safety of another person directly in danger; or

(b) the danger referred to in subsection (1) is inherent in the work of the employee. 1996, c. 7, s. 43.

#### **Restriction on assignment of work where refusal**

**44** Where an employee exercises the employee's right to refuse to work pursuant to subsection 43(1), no employee shall be assigned to do that work until the matter has been dealt with under that subsection, unless the employee to be so assigned has been advised of

(a) the refusal by another employee;

(b) the reason for the refusal; and

(c) the employee's rights pursuant to Section 43. 1996, c. 7, s. 44.

## **Partition Act**

### **CHAPTER 333**

#### **OF THE**

#### **REVISED STATUTES, 1989**

#### **Land subject to partition**

**4** All persons holding land as joint tenants, co-parceners or tenants in common, may be compelled to have such land partitioned, or to have the same sold and the proceeds of the sale distributed among the persons entitled, in the manner provided in this Act. R.S., c. 333, s. 4.

#### **Right of action**

**5** Any one or more of the persons so holding land may bring an action in the Trial Division of the Supreme Court for a partition of the same, or for a sale thereof, and a distribution of the proceeds among the persons entitled. R.S., c. 333, s. 5.

#### **Commissioners**

**18** When such order passes, unless it appears to the Court or judge that a sale of the land is necessary under the provisions of this Act, the Court or judge may appoint three disinterested persons as commissioners, to make partition and to set off to the parties their respective shares. R.S., c. 333, s. 18.

**Division of land**

**22** (1) The commissioners shall divide the land and allot the several shares thereof to the respective parties mentioned in the order, designating the several shares by sufficient monuments.

**Allotment in common**

(2) The shares of any two or more parties may be allotted to them in common, upon their expressing their consent to that effect in writing, addressed to the commissioners. R.S., c. 333, s. 22.

**Set off of land**

**24** (1) When the land, of which partition is sought, cannot be divided without prejudice to the owners, or when any specific part thereof is of greater value than the share of any party and cannot be divided without prejudice to the owners, the whole land, or the part so incapable of division, may be set off to any one of the parties who will accept it, upon payment by him to any one or more of the others of such compensation as the commissioners determine.

**Confirmation of partition upon payment**

(2) The partition in such case shall not be confirmed by the Court or judge until all the sums so awarded are paid to the parties entitled thereto, or secured to their satisfaction. R.S., c. 333, s. 24.

**Alternate occupation**

**25** The commissioners, instead of setting off the land or a part thereof, in the manner provided in Section 24, may assign the exclusive occupancy and enjoyment of the whole or the part, as the case may be, to each of the parties alternately, for certain specified times, in proportion to their respective interests therein. R.S., c. 333, s. 25.

**Sale of land**

**28** (1) Where

(a) the land, or any part thereof, cannot be divided without prejudice to the parties entitled; or

(b) any party is, by reason of infancy, insanity or absence from the Province, prevented from accepting such land, or part thereof, incapable of division under this Act,

the Court or a judge may order that such land shall be sold after such notice and in such manner as the Court or judge directs, and that the net proceeds of such sale shall be divided among the parties entitled.

**Application for new partition**

**33** If any person who was a part owner with the plaintiffs and for whom a share was assigned upon the partition, was described as an unknown person, and there was not personal service of, or appearance to, the originating notice or notice to him, he may, at any time within three years after the final judgment, apply to the Court for a new partition of the premises. R.S., c. 333, s. 33.

**Petroleum Resources Act**

CHAPTER 342

OF THE

REVISED STATUTES, 1989

**Interpretation**

**2** In this Act, unless the context otherwise requires,

- (a) "coal gas" means methane occurring naturally in coal seams and associated strata and includes methane obtainable by methane extraction;
- (b) "Department" means the Department of Mines and Energy;
- (c) "methane extraction" means any process approved by the Minister by which methane gas is extracted or manufactured from coal;
- (d) "Minister" means the Minister of Mines and Energy;
- (e) "petroleum" means, in addition to its ordinary meaning, any mineral oil or relative hydrocarbon and any natural gas, including coal gas, existing in its natural condition in strata, but does not include coal or bituminous shales or other stratified deposits from which oil can be extracted by destructive distillation;
- (f) "prescribed" means prescribed by the regulations;
- (g) "Province" means Her Majesty in right of the Province;
- (h) "right" or "petroleum right" means an exploration licence, an exploration agreement, a production lease or a coal gas agreement granted pursuant to this Act or the regulations and includes any right arising from an exploration licence, exploration agreement, production lease or coal gas agreement. R.S.,c. 342, s. 2.

#### **Inspection of documents**

**4** (3) The Registrar shall have an office at such place as may be determined by the Governor in Council where he shall keep such books, official maps and plans for the recording therein of petroleum rights and other documents as may be prescribed and such books, official maps and plans and such other documents as are not prescribed to be confidential shall be open for inspection by an interested person during office hours on payment of the prescribed fee. R.S., c. 342, s. 4.

#### **Application of Act**

**7** This Act applies to all Nova Scotia lands, which means the land mass of Nova Scotia including Sable Island, and includes the seabed and subsoil off the shore of the land mass of Nova Scotia, the seabed and subsoil of the Continental shelf and slope and the seabed and subsoil seaward from the Continental shelf and slope to the limit of exploitability. R.S., c. 342, s. 7.

#### **Vesting of petroleum**

**10** (1) All petroleum located in or under Nova Scotia lands is and is deemed always to have been vested in the Province and every grant made by the Crown shall be construed and held to reserve all the petroleum in the lands so granted.

#### **Grant of petroleum right**

(2) Petroleum rights may be granted pursuant to this Act, and upon their expiry are revested in the Province. R.S., c. 342, s. 10.

#### **Consent to enter upon lands**

**12** (1) No holder of a petroleum right may enter upon any Nova Scotia lands, including lands owned by the Province, to explore for or develop petroleum, without the consent of the owner or lawful occupier of the surface of such lands.

#### **Consent to enter upon lands**

**24** (1) No holder of a production lease or a coal gas agreement may enter upon or occupy any Nova Scotia lands to produce petroleum without the written consent of the owner or lawful occupier of such lands.

#### **If consent not obtainable**

(2) Where consent cannot be obtained, the holder may request the Minister to order that the land

necessary for the production of petroleum according to the terms of the lease or agreement be vested in the holder.

**Issue of vesting order**

(3) If the Minister is satisfied that the land should be vested in the holder, he shall issue an order vesting it in that person.

**Filing of vesting order**

(4) A vesting order issued by the Minister shall be filed at the appropriate registry of deeds and the filing thereof shall be deemed to be a deposit of expropriation documents pursuant to the Expropriation Act.

**Deemed expropriating authority**

(5) Upon the filing of a vesting order by the Minister, the holder named in the order is and is deemed to be an expropriating authority within the meaning of the Expropriation Act. R.S., c. 342, s. 24.

**Pipeline Act**  
CHAPTER 345  
OF THE  
REVISED STATUTES, 1989

**Application of Act**

**2** (1) This Act applies to all pipelines on or under Nova Scotia lands.

**"Nova Scotia lands"**

(2) "Nova Scotia lands" means the land mass of Nova Scotia including Sable Island, and includes the seabed and subsoil off the shore of the land mass of Nova Scotia, the seabed and subsoil of the Continental shelf and slope and the seabed and subsoil seaward from the Continental shelf and slope to the limit of exploitability. R.S., c. 345, s. 2.

**Withdrawal or exemption**

**4** (1) The Governor in Council may, by order, for any purposes and under any conditions set out in the order,

- (a) withdraw from the application of this Act or the regulations, or any part thereof, such Nova Scotia lands;
- (b) exempt from this Act or the regulations, or any part thereof, any person or pipeline including a gas pipeline, or any class or classes of persons or pipelines,

as are specified in the order.

**Right of entry and inspection**

**22** (1) At any reasonable time, a member of the Energy Board or any person authorized by the Energy Board

- (a) is entitled to access to pipelines, rights of way and routes of proposed pipelines, and to all buildings, installations, structures and land incidental thereto;
- (b) may enter upon any land which it is necessary to cross to reach a pipeline or installation;
- (c) may inspect, investigate or test pipelines and installations;

(d) may inspect all books, records and documents pertaining to construction, operation and maintenance of pipelines.

**Title to property in pipeline**

**31** The title to all property in pipelines and works constructed by a person pursuant to the provisions of this Act shall remain vested in such person, his heirs, successors, executors, administrators and assigns, notwithstanding that the whole or any part thereof has before, on or after the twenty-eighth day of July, 1984, become affixed to realty, the title to which is not vested in such person. R.S., c. 345, s. 31.

**Acquisition of required land**

**32** (1) When a holder of a permit or licence requires an interest in land for the purposes of a pipeline for which a permit or licence is issued, the interest may be acquired in such lands

- (a) by agreement with the owner of the lands; or
- (b) if the holder is unable to arrive at an agreement with the owner of the lands, by application to the Minister for an order that the interest in lands required be vested in the holder of the permit or licence.

**Issue of vesting order**

(2) If the Minister is satisfied that the interest in lands should be vested in the holder of the permit or licence, he shall issue an order vesting it in that person.

**Filing of vesting order**

(3) A vesting order issued by the Minister shall be filed at the appropriate registry of deeds and the filing thereof shall be deemed to be a deposit of expropriation documents pursuant to the Expropriation Act.

**Deemed expropriating authority**

(4) Upon the filing of a vesting order by the Minister, the holder named in the order is and is deemed to be an expropriating authority within the meaning of the Expropriation Act. R.S., c. 345, s. 32.

**Expropriation Act**

**33** (1) The Expropriation Act shall apply mutatis mutandis to any such expropriation.

**Conflict**

(2) Notwithstanding Section 4 of the Expropriation Act, wherever the provisions of that Act conflict with the expropriation provisions of this Act, the expropriation provisions of this Act prevail.

**Deemed statutory authority**

(3) The holder of a permit or licence is deemed to be the statutory authority for the purposes of the Expropriation Act.

**Deemed approving authority**

(4) The Minister is deemed to be the approving authority for the purposes of the Expropriation Act  
R.S., c. 345, s. 33.

**Private Ways Act**  
CHAPTER 358  
OF THE  
REVISED STATUTES, 1989

PART I  
AUTHORITY OF GOVERNOR IN COUNCIL

**Petition for right of way**

**2** (1) Every owner or occupier of any mine, mill, quarry, farm or factory who is desirous of transporting the produce of such mine, mill, quarry, farm or factory to a railway or public way, or to tidal or other waters or elsewhere, and every owner or occupier of any timber lands who desires to enter upon such lands and cut the timber or wood thereon and remove the same to a mill, railway or public way, or tidal or other waters or elsewhere, and who is unable to agree for a right of way with the owner or owners of any lands which it is necessary to cross in order to effect such entry or transportation, may present a petition to the Governor in Council.

**Content of petition**

(2) Such petition shall set forth

- (a) the nature of the business which such owner or occupier is desirous of carrying on;
- (b) a description of the property over which it is sought to obtain a right of way;
- (c) the width of such right of way;
- (d) the nature and extent of the right required; and
- (e) the amount which such owner or occupier has offered to pay the owner or owners of the

lands sought to be crossed for a right of way across the same, and shall pray that proceedings be taken under this Part to enable the petitioner to acquire a right of way across such land. R.S., c. 358, s. 2.

**Commissioner and powers on inquiry**

**3**(1) Upon the presentation of the petition the Governor in Council may appoint a commissioner who, for the purposes of the inquiry herein provided, has power to summon before him any persons and to require them to give evidence on oath or affirmation and produce such documents and things as such commissioner deems requisite.

**Service of documents**

(2) Upon such presentation, the Attorney General shall forthwith, at the expense of the petitioner, cause the owner of the land over which it is sought to obtain a right of way to be served with a copy of the petition, together with a notice that a commissioner appointed by the Governor in Council will, at a time and place to be named in such notice, hear the application for such right of way and any objections thereto, and the petition and notice shall be so served not less than twenty days before the day so appointed.

**Substituted service**

(3) If such owner is absent from the Province, service on him of such petition and notice may be made by publishing the same in a newspaper published in the county in which such lands lie for at least four issues of such newspaper. R.S., c. 358, s. 3.

### **Hearing and report**

**4** (1) At the time and place so named, such commissioner shall hear such application and all objections thereto and report the evidence taken by him to the Governor in Council.

### **Order to grant right of way**

(2) The Governor in Council, if satisfied that the right of way sought to be obtained is actually necessary for the purposes for which it is sought and that it is otherwise just and reasonable that the same should be obtained, shall thereupon by order in council declare that the petitioner is entitled to acquire under this Part a right of way over the lands mentioned in the petition or a part thereof.

### **Content of order**

(3) Such order shall define the boundaries of such right of way and shall specify the nature and extent of the right and whether the right is to be acquired in perpetuity or for a term of years. R.S., c. 358, s. 4.

### **No right of way through building or orchard**

**5** Where the commissioner finds on examination that the proposed right of way runs through any house, building, orchard or garden, he shall, without further inquiry, so report to the Governor in Council and no further proceeding shall take place on such petition. R.S., c. 358, s. 5.

## PART II AUTHORITY OF MUNICIPAL COUNCIL

### **Interpretation**

**16** In this Part,

- (a) "commissioner" means the person appointed by the council under this Part;
- (b) "council" means the council for the municipality in which the road, alteration, landing or work is situated;
- (c) "land" includes any easement or right in land;
- (d) "owner" includes any person having an interest in land or in an easement or right in land;
- (e) "road" includes a bridge or approach to a bridge, except in the provision prescribing the width of a road;
- (f) "warden" means the warden for the municipality in which the road, alteration, landing or work is situated. R.S., c. 358, s. 16.

### **Petition for private way or road**

**17** (1) Any freeholder or freeholders of any municipality may present a petition to the council praying for the obtaining and laying out of a private way or road, either open or pent.

### **Commissioner and duties**

(2) Where the council is satisfied that the application should be granted, it shall order a precept to be issued to a competent person as a commissioner, directing him, within a convenient time, to

- (a) examine whether the proposed private way or road is the most practicable and reasonable means of access for the person or persons petitioning for the way or road to his or their lands or property or rights;

(b) if satisfied with respect thereto, lay out the same in the manner most advantageous to the person or persons applying for the way or road and least detrimental to the owner or owners of the land through which the same shall pass; and

(c) mark out the same on the land. R.S., c. 358, s. 17.

#### **Further duties of commissioner**

**18** (1) If the commissioner considers that the proposed way or road is reasonable and practicable and requisite for the purposes of the person or persons applying therefor, he may lay out and mark the same and make plans thereof, in duplicate, and if he considers otherwise he shall so report to the council.

#### **Maximum width of way or road**

(2) Such way or road shall be not more than twenty-five feet in width. R.S., c. 358, s. 18.

#### **Agreement for compensation**

**19** (1) The commissioner may make an agreement in writing as to the compensation therefor with the owners of the land, the use of which is required for the purposes of the proposed private way or road.

#### **Content of agreement**

(2) Such agreement shall contain a description of such land, a reference to the plan and the amount agreed upon for compensation.

#### **Calculation of compensation**

**28** The compensation to which an owner shall be entitled shall include the value of the use of the land so taken, if any, and the damages to the land of the owner directly caused by such private way or road. R.S., c. 358, s. 28.

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## **Provincial Parks Act**

### CHAPTER 367

### OF THE

### REVISED STATUTES, 1989

**amended** 1992, c. 30; 1993, c. 9, s. 7

#### **Purpose**

**2** (1) The purpose of this Act is to develop and operate provincial parks to

- (a) provide opportunities for a wide variety of outdoor recreational opportunities ranging from relatively high intensity near-urban facilities to low intensity wildland experiences;
- (b) preserve unique, rare, representative or otherwise significant elements of the natural environment and historic resources of Nova Scotia;
- (c) provide opportunities for exploration, understanding and appreciation of Nova Scotia's natural and cultural heritage through interpretation, information and educational programs;
- (d) provide resident travelers and out-of-Province visitors with opportunities to discover, experience and enjoy Nova Scotia's distinctive outdoor recreational and heritage resources; and
- (e) assemble and maintain, within a system of provincial parks and park reserves, a land base adequate to meet present and future needs of Nova Scotians for outdoor recreation and heritage resource protection.

**Dedication**

(2) All provincial parks are dedicated in perpetuity for the benefit of present and future generations of Nova Scotians. R.S., c. 367, s. 2.

**Interpretation**

**3** In this Act,

- (a) "bow" means a tool for projecting arrows which consists of a handle and one or more flexible limbs which are held bent by a string or cable which is drawn, pulled or released or held in a drawn position by hand or hand-held release and not by any mechanical device attached to any portion of the bow other than the bowstring;
- (b) "concession" means a right granted by the Minister to operate a building, installation, service or facility within a provincial park;
- (c) "conservation officer" means a person appointed or holding office pursuant to this Act;
- (d) "Crown land" means land, whether or not covered by water, and includes an interest in land vested in Her Majesty in right of the Province;
- (e) "Department" means the Department of Lands and Forests;
- (f) "Director" means the Director of Parks and Recreation appointed pursuant to this Act;
- (g) "domestic animal" means an animal that is kept under human control or by habit or training lives in association with man;
- (h) "firearm" means a barreled weapon from which a shot, bullet or other missile can be discharged and that is capable of causing serious bodily injury or death to a person, and includes a frame or receiver of such a barreled weapon and anything that can be adapted for use as a firearm and includes a bow;
- (I) "Minister" means the Minister of Lands and Forests;
- (j) "park reserve" means land set aside as park reserve land pursuant to Section 6;
- (k) repealed 1993, c. 9, s. 7.
- (l) "provincial park" means land designated pursuant to Section 8 and a provincial park continued by Section 36;
- (m) "vehicle" means a vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered pursuant to the Motor Vehicle Act, and includes an airplane;
- (n) "vessel" means a means of conveyance of a kind used on water and includes an accessory to the vessel;
- (o) "wildlife" means a species of animal which is wild by nature and hence not normally dependent on man to directly provide its food, shelter or water and, where appropriate, includes wild plants. R.S., c. 367, s. 3; 1992, c. 30, s. 1; 1993, c. 9, s. 7.

**Park reserves**

**6** (1) The Governor in Council may set aside and reserve Crown land as park reserve for the purpose of protecting those lands that have the potential to be a provincial park.

**Prohibition of grants**

(3) No person shall grant or transfer any Crown land constituted as a park reserve unless permitted by the regulations or authorized by the Minister.

**Procedure on designation**

**9** Where the Governor in Council designates an area of land as a provincial park, the Minister shall

(a) publish a notice containing a description of the provincial park in the Royal Gazette and in a newspaper circulating in the county or counties where the provincial park is located; and

(b) deposit a description and plan of the provincial park in the office of the registrar of deeds for the registration district in which the provincial park is located. R.S., c. 367, s. 9.

#### **Grant of rights**

**17** (1) The Minister may grant a licence, privilege or concession with respect to a provincial park or any part thereof or any land, building, installation or facility therein.

#### **Term of grant**

(2) No licence, privilege or concession shall extend beyond five years without the approval of the Governor in Council. R.S., c. 367, s. 17.

#### **Grant of easement**

**17A** The Minister may, with the approval of the Governor in Council, grant an easement with respect to a provincial park or a part thereof. 1992, c. 30, s. 3.

#### **Adverse possession**

**22**(2) No person acquires a right or title to land contained within a provincial park or park reserve through the use, possession or occupation of the land. R.S., c. 367, s. 22.

## **Public Highways Act**

### CHAPTER 371

### OF THE

### REVISED STATUTES, 1989

#### **Interpretation**

**2** In this Act,

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

(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 Communications;

(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 Communications;

(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.

#### **Deemed common and public highway**

**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.

#### **Vesting in Crown**

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

#### **Power to vest title in municipality**

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

#### **Approval by Governor in Council not required**

(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,

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

#### **Filing of documents**

**13** (1) When the Minister desires to reserve lands for highway purposes, he shall file or cause to be filed in the registry of deeds of the district in which the lands are situated a declaration that he so reserves the lands and the period of the reservation together with a plan and description of the lands to be reserved.

#### **Notice to owner**

(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 his residence are known to the Minister, by serving upon him or by mailing by registered letter addressed to him at his last known place of residence; or
- (b) if the owner or his 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.

#### **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, and the land is subsequently acquired by the Minister for highway purposes, the Minister 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 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 increasing the value thereof whereby the dwelling house is not converted into an increased number of dwelling units. R.S., c. 371, s. 14.

**Deemed width 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.

**Determination of disputed boundary**

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

**Width of new or altered highway**

**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.

**Acceptance of road or allowance as public highway**

(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 his 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 he accepts the road or allowance as a public highway for the purposes of this Act. R.S., c. 371, s. 16.

**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.

**Filing of order**

(2) A true copy of an order in council 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 in which the highway or part thereof is situate.

**Disposal of highway after public right extinguished**

(3) The Governor in Council may make such provision for the use of such highway or part thereof by the adjoining owners as is deemed expedient, or the Governor in Council may sell, lease or otherwise dispose of the land within the boundary of such highway or part thereof. R.S., c. 371, s. 18.

**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.

### **Penalty**

(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.

### **Closure of private road or gate**

(3) The Minister or any person acting by or under his 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, may enter by himself, his servants and agents, by force, if necessary, into and upon any land or part thereof.

### **Removal of structure by Minister**

(4) The Minister or any person acting by or under his 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, may enter by himself, his servants and agents, by force, if necessary, into and upon the land or part thereof.

### **"private road" defined**

(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.

### **Obstructing highway or drain or watercourse**

**40** (1) Any person who

- (a) places an obstruction on a highway;
- (b) places an obstruction in a drain, gutter, sluice or watercourse on a highway;
- (c) prevents by a dam or obstruction water flowing from the highway on to the adjoining land whether or not he 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.

### **Obstruction on land adjacent to highway**

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

## **Public Trustee Act**

### CHAPTER 379

### OF THE

### REVISED STATUTES, 1989

### **Interpretation**

**2** In this Act,

- (a) "administering" means acting as guardian or custodian or trustee or executor or administrator of the estate of a person or a deceased person;
- (b) "court" means a court of competent jurisdiction and includes a judge thereof and in respect of the court of probate includes the registrar of probate;

- (c) "guardian" includes guardian ad litem;
- (d) "mentally disordered patient" means a patient certified as having a mental disorder as required by the Nova Scotia Hospital Act for admission by medical certificate to the Nova Scotia Hospital;
- (e) "missing person" means a person who cannot be found after all reasonable efforts have been made to locate him and includes a person who dies intestate or intestate as to some part of his estate without leaving any known heir-at-law living in the Province or any heir-at-law who can be readily communicated with living elsewhere or where the only heir-at-law is an infant or where Her Majesty in right of the Province has an interest in the estate or proceeds thereof;
- (f) "patient" means a person who is under observation, care and treatment in a psychiatric facility;
- (g) "property" means real and personal property;
- (h) "psychiatric facility" means a facility for the observation, care and treatment of persons suffering from mental disorder and designated as such by the regulations;
- (I) "Public Trustee" means the person appointed as Public Trustee pursuant to this Act. R.S., c. 379, s. 2.

#### **Powers of Public Trustee**

- 4 (1)** The Public Trustee may perform the duties of, and be, a
- (a) guardian under
    - (I) the Guardianship Act,
    - (ii) the Incompetent Persons Act,
    - (iii) the Inebriates Guardianship Act,
    - (iv) the Probate Act,
    - (v) the Civil Procedure Rules,
    - (vi) an order of a court,
    - (vii) an order of the Governor in Council,
    - (viii) this Act or any other Act;
  - (b) custodian of the property of a missing person or a deceased person or as otherwise provided in this Act;
  - (c) trustee
    - (I) of the estate of a person or of a deceased person if appointed by order of a court,
    - (ii) either alone or jointly with any other person or persons to carry out a trust where he is appointed for that purpose
      - (A) by or in accordance with the instrument creating the trust,
      - (B) after the creation of the trust with the consent of the majority of the persons beneficially interested in the trust who are for the time being of age and capable in law of giving a valid consent, or
      - (C) by order of a court;
  - (d) executor or administrator of the estate of a deceased person in any of the capacities referred to in the Probate Act or this Act including the capacity and authority to be appointed executor or administrator of the estate of a deceased person where no person is so appointed so that service of process may be made upon him to effect a legal action.

**Guardian of estate of physically disabled person**

**8** (1) The court by order may

- (a) where an application is made by a relative, friend or creditor of a person who is by reason of physical disability incapable of attending to and transacting his business affairs; and
- (b) where satisfied that the person is suffering from such incapacity and is unable to attend to or transact his own affairs or business and by reason thereof his estate is in jeopardy,

appoint the Public Trustee guardian of the estate of that person.

**Guardian for estate of non-resident**

**9** (1) Where a person who is in a hospital or other public institution in another province has an estate in this Province, the Governor in Council may appoint the Public Trustee or any person in the other province who is charged with the duty of managing, handling, administering or caring for the estate of that person to be guardian of his estate in this Province.

**Order in council as proof**

(2) The order in council making the appointment is conclusive proof that the conditions precedent to the appointment have been fulfilled.

**Incompetent Persons Act**

(3) The provisions of the Incompetent Persons Act shall apply mutatis mutandis to any appointment pursuant to subsection (1) except to the extent they are varied by this Act. R.S., c. 379, s. 9.

**Notice of application respecting missing person**

**11** (1) The Public Trustee shall be served with notice of each application made to a court in respect of the property or estate of a missing person.

**Manner of service of notice**

(2) Such service on the Public Trustee may be made by delivering to the Public Trustee a copy of the originating notice, petition or other process originating the matter in which the application is made, together with copies of all affidavits and other material to be used on the application.

**Guardian of estate of missing person**

(3) The Public Trustee when served is guardian of the estate or the property of the missing person until the court otherwise orders.

**Condition to proceed with application**

(4) No application referred to in subsection (1) shall be proceeded with until the Public Trustee is represented on the application or has expressed his intention of not being represented. R.S., c. 379, s. 11.

**Powers of Court respecting missing person**

**13** (1) If it is proved to the satisfaction of a judge of the Supreme Court that a person is a missing person within the meaning of this Act, the judge

- (a) may declare that person to be a missing person; and
- (b) by order may appoint the Public Trustee as trustee of the property of the missing person.

**Election to administer estate of deceased**

**16** (1) The Public Trustee without obtaining any order or authority from a court or from the Governor in Council or otherwise may, where

- (a) either
  - (I) a person dies intestate in or out of the Province leaving an estate or interest

- therein in the Province,  
or  
(ii) he is administering the estate of a person as guardian, trustee or custodian pursuant to this Act or any other Act and the person for whose benefit the estate is being administered dies;
- (b) the gross value of the estate or interest therein as estimated by him does not exceed two thousand five hundred dollars;
- (c) no person has taken out a grant of probate or letters of administration or letters of administration with will annexed; and
- (d) all parties entitled to apply for a grant of administration or probate, renounce their right to do so and nominate the Public Trustee, instead of obtaining letters of administration or letters of administration with will annexed make an election in writing to administer the estate or interest therein, and may
- (e) out of the personal property give or distribute, in his discretion, wearing apparel and articles of personal use or ornament to or among one or more of the family and relatives of the deceased, and, if there are no family or relatives of the deceased, to such person or persons as he deems fit;
- (f) sell property not dealt with under clause (e) and apply the proceeds towards payment of sums due and debts incurred; and
- (g) do all things necessary to complete the administration of the estate.

## **Public Utilities Act**

### CHAPTER 380 OF THE REVISED STATUTES, 1989

**amended** 1992, c. 37, s. 3; 1992, c. 8, s. 35; 1992, c. 11, s. 43;  
1997, c. 4, s. 43

### **Interpretation**

#### **2** In this Act,

- (a) "Board" means the Nova Scotia Utility and Review Board;
- (b) repealed 1992, c. 11, s. 43.
- (c) "extension" includes any reasonable extension of the service and facilities of every public utility;
- (d) "net income or revenue" means money available for dividends and surplus, according to the accounts prescribed by the Board and required to be kept by every public utility;
- (e) "public utility" includes any person that may now or hereafter own, operate, manage or control
- (I) any tramway,
- (ii) any trolley bus or motor vehicle, other than one being operated as a taxi, for the conveyance of passengers from any point within a city or incorporated town to any other point within such city or town, including any such person who also operates any trolley bus or motor vehicle for the conveyance of passengers to or between points outside such city or town but not including any such person whose

revenue from the operation of any trolley bus or motor vehicle for the conveyance of passengers between points within any city or town does not, in the opinion of the Board, exceed ten per cent of the gross revenue of such person from the operation of trolley buses or motor vehicles,

(iii) any plant or equipment for the conveyance of telephone messages,

(iv) any plant or equipment for the production, transmission, delivery or furnishing of electric power or energy, water or steam heat either directly or indirectly to or for the public,

(v) repealed 1997, c. 4, s. 43.

(vi) any plant or equipment for the extraction, transmission, delivery or furnishing of a geothermal resource or for the production, transmission, delivery or furnishing of geothermal energy or heat either directly or indirectly to or for the public;

(f) "service" includes

(I) the conveyance for compensation by a public utility of passengers,

(ii) the conveyance or transmission for compensation by a public utility of telephone messages,

(iii) the production, transmission, delivery or furnishing to or for the public by a public utility for compensation of electrical energy for purposes of heat, light and power,

(iv) repealed 1997, c. 4, s. 43.

(v) the production, transmission, delivery or furnishing to or for the public by a public utility for compensation of water,

(vi) the production, transmission, delivery or furnishing to or for the public by a public utility for compensation of steam heat,

(vii) the extraction, transmission, delivery or furnishing to or for the public by a public utility for compensation of a geothermal resource,

(viii) the production, transmission, delivery or furnishing to or for the public by a public utility for compensation of geothermal energy or heat;

(g) "telephone line" includes all devices, real estate, franchises, easements, apparatus, fixtures, property, appurtenances and routes used, operated, controlled or owned by any public utility to facilitate the business of affording telephonic communication for hire, and all conduits, ducts, poles, wires, cables, cross-arms, receivers, transmitters, instruments, machines and appliances, connected or used therewith;

(h) "tramway" includes a street railroad, railway or tramway for the conveyance of passengers, operated by motive power other than steam, and usually constructed in whole or in part in, under or above public streets, roads, ways and places, and the poles, wires and other appliances and equipment connected therewith. R.S., c. 380, s. 2; 1992, c. 37, s. 3; 1992, c. 11, s. 43; 1997, c. 4, s. 43.

### **Regulations respecting poles and pole lines**

**26** (1) The Board may make rules and regulations for the erection, construction, maintenance and repair of all poles and pole lines, specifying the type, character, quality and dimensions of such poles and the cross arms and other equipment to be attached thereto, and for the stringing, construction, erection, maintenance and repair of all wires, including drop wires and service wires, or other conductors for the transmission of electric energy, messages or signals, and for

the construction, erection, maintenance and repair of all conduits, ducts, pins, insulators, attachments, transformers or any structure or device used or useful in connection with the transmission of electric energy, messages or signals by wire, as the Board may deem in the public interest, and may require every public utility to bring its existing poles, pole lines, wires, conductors, devices, attachments and equipment into conformity with such rules and regulations.

**Effect of regulations**

(2) Such rules and regulations shall have the force of law, and any provisions contained in the Act of incorporation of any public utility or in any city charter or in the Towns Act, or in any by-laws and ordinances thereunder, conferring upon any public utility or any city, town or municipality, or any official thereof, powers which are by this Act conferred upon the Board, are repealed. R.S., c. 380, s. 26.

**Right of entry onto supplied premises**

**61** (1) Any officer or agent of the public utility authorized in writing by the public utility may, for the purpose of

(a) inspecting the electric wires, meters, accumulators, fittings, works and apparatus of the public utility for the supply of electrical energy;

(b) ascertaining the quantity of electrical energy consumed or supplied;

(c) removing any electric wires, meters, accumulators, fittings, works and apparatus belonging to the public utility; or

(d) in cases where a supply of electrical energy is no longer required, or the public utility is authorized to take away and cut off the supply of electrical energy from any premises, doing as little damage thereby as may be,

enter at all reasonable times any premises to which electrical energy is or has been supplied by the public utility.

**Repair of damage caused by entry**

(2) Such officer or agent shall repair all damage caused by such entry, inspection or removal. R.S., c. 380, s. 61.

**Nova Scotia Power Incorporated**

**117**(2) This Act applies to the Nova Scotia Power Incorporated and the Nova Scotia Power Incorporated is a public utility within the meaning of this Act.

## **Quieting Titles Act**

### CHAPTER 382

#### OF THE

#### REVISED STATUTES, 1989

**Right of action for certificate of title**

**3** (1) Any person who claims a property right in land may commence an action in the Trial Division of the Supreme Court or in the county court of the district in which the land lies for a certificate of title under this Act.

**Joined with other claim**

(2) The claim may be the sole claim in the action or may be joined with a claim in trespass to land, in ejectment, for the recovery of land, for mesne profits, for partition, for foreclosure of a

mortgage, equity of redemption or agreement of sale or for specific performance of an agreement to convey land, with any other claim in which the title to or right to possession of land is in issue or with any combination of such claims.

### **Judicature Act and Civil Procedure Rules**

(3) Except where it is expressly otherwise provided, the Judicature Act and the Civil Procedure Rules apply to such actions.

### **Right of action by Attorney General**

(4) The Attorney General shall bring such an action only where the claim for a certificate of title is

joined with some other claim. R.S., c. 382, s. 3.

### **Statement of claim and plan**

**5** (1) The statement of claim shall contain a concise statement of the facts on which the plaintiff bases the claim and of the nature of that claim, and in particular shall set out

(a) a description of the land in question sufficient to identify it and to distinguish it from all other land;

(b) the names of the owners and occupiers of the adjoining lands, if they can be ascertained, whether the plaintiff or some other person is or claims to be in actual or constructive possession of the land, and in whose name it is assessed for city, town, municipal or other local rates or taxes; and

(c) all the property rights that the plaintiff admits to exist other than the right that the plaintiff claims and all such claims to property rights that the plaintiff knows of but does not admit,

and a plan of the land conforming to the requirements of the Registry Act for registration shall be attached to the statement of claim.

### **Accompanying affidavits**

(2) The statement of claim shall be verified in every material particular by one or more affidavits, which shall be filed with the originating notice.

### **Nature of deposition in affidavit**

(3) A person, who deposes to facts not within the time of living memory or to claims of rights that are not admitted by the plaintiff, may do so as to his belief, stating the grounds thereof, and in all other particulars the deponent shall swear only to matters of which the deponent has personal knowledge.

### **Rejection of affidavit**

(4) The court or judge may reject any affidavit as lacking probative force. R.S., c. 382, s. 5.

### **Abstract of title**

**6** The plaintiff shall file with the originating notice an abstract of the title to the land certified by the registrar of deeds for the registration district in which the land lies, or by a solicitor of the Supreme Court, to be a complete abstract of all the records in the registry that affect or may affect the title to the land. R.S., c. 382, s. 6.

### **Service of documents with originating notice**

**7** (1) The affidavits of verification and a copy of the abstract of title shall be served with the originating notice.

### **Application for directions and notice thereof**

(2) After service of the originating notice and expiration of the time limited for filing a defence, the

plaintiff shall apply for directions to a judge in chambers and shall give two clear days notice of the application to the Attorney General and to all other parties.

**Rights of interested person**

**10** (1) Any person, who thinks that he may be affected by the claim for the certificate, may be heard on the application for directions and may be permitted to intervene as a defendant at any time, by the court or a judge, but shall not be permitted to contest the claim unless the person is added as a defendant.

**Certificate of title after trial**

**12** (1) Where, after the trial or determination of all issues of law and fact between the parties, it appears that a party claiming a certificate of title is entitled to some property right in the land, whether it is the property right claimed or not, the court or a judge may order that a certificate of title be issued to the claimant for the property right to which the claimant has been found entitled.

**Possession for twenty years**

(2) Where it appears that the plaintiff or the plaintiffs predecessors in title have been in possession as owners or part-owners for twenty years prior to the commencement of the action and during that time a person, whether or not the persons whereabouts are known, has or may have an interest in the lands forming the subject-matter of the action and such person has not received any benefit, paid any expenses or exercised any proprietary rights in respect to said lands, the judge may order subject to subsection (3) that the interest of such person vest in the plaintiff.

**Payment into court**

(3) Where the judge finds that a person, other than the plaintiff, has an interest in the lands, the judge shall determine the value of that interest and shall direct that the plaintiff pay into court such amount, for such period and on such conditions as will secure the interest of such person.

**Certificate of title to purchaser upon sale by court**

(4) Where as a result of the action the land is sold by order of the court and a certificate of title is claimed in the action, the court may order that a certificate of title be issued to the purchaser for the property right to be conveyed by the sale. R.S., c. 382, s. 12.

**Burden of proof**

**13** Nothing in this Act changes the burden of proof upon the parties in actions of trespass to land, of ejectment or for the recovery of land, or in the other actions in which a claim for a certificate of title may be joined under this Act, nor is it required that any lesser or greater title or possession be shown than was required on the twenty-fourth day of March, 1961, in such cases, but the claimant may establish under this Act whatever title the claimant has against the Crown and against persons generally. R.S., c. 382, s. 13.

**One or separate certificates of title**

**15** (1) The court or judge may order that one certificate of title, comprising all the land mentioned in the claim, be issued or may order that separate certificates be issued for separate parts of the land and that such certificates be issued to different parties claiming certificates of title.

**Issue of certificate of title**

(2) Where the court or a judge orders a certificate of title to be issued, the prothonotary or clerk of the court shall issue under his hand and the seal of the court a certificate of title in Form 4 of the Schedule to this Act for the property right determined by the order.

**Duty of registrar of deeds to register**

(3) A registrar of deeds shall register a certificate of title or a true copy thereof certified to be such by the prothonotary or clerk of the court without requiring further proof thereof. R.S., c. 382, s. 15.

**Effect of registered certificate of title**

**16** (1) A certificate of title, when it has been issued and registered in the registration district in which the land lies, is binding and conclusive upon all persons, including the Crown, and whether named in the action or not, and, except as is herein otherwise provided, the same is not liable to be attacked or impeached at law by any person whomsoever: the title mentioned in the certificate shall be deemed absolute and indefeasible on and from the date of the certificate as regards the Crown and all persons whomsoever, subject only to any charges, encumbrances, reservations, exceptions or qualifications mentioned in the certificate, and is conclusive evidence that every application, notice, publication, proceeding, consent and act that ought to have been made, given and done before the granting of the certificate has been made, given and done by the proper person.

**Certificate of title subject to certain other rights**

(2) Every certificate of title issued under this Act is subject to the following exceptions and qualifications unless the certificate expressly states otherwise:

- (a) any municipal charges, rates or assessments;
- (b) any lease or agreement for a lease or other holding for a period yet to run not exceeding three years where there is actual occupation under the lease; and
- (c) any right of expropriation which is by statute vested in any person or body corporate, and a certificate does not deprive the spouse of the person to whom the certificate is issued of any right the spouse may have pursuant to the Matrimonial Property Act. R.S., c. 382, s. 16.

**Fraud**

**17** (1) Any person, who claims to have been deprived of any property right by the certificate of title, may apply to the court or a judge, within one year after the registration of the certificate in the registry of the district in which the land lies, to have the certificate set aside on the ground that it was obtained by fraud.

**Power of court to set aside**

(2) The court or judge, if satisfied that the certificate was obtained by means of a false representation known to be false by the plaintiff or the plaintiffs agent or by a wilful withholding of material facts or evidence by the plaintiff or the plaintiffs agent, may set aside the certificate of title.

**Effect of setting aside**

(3) A certificate of title that has been set aside for fraud is void and of no effect from the date of issue, but this does not affect the rights of any person who has purchased the land or any interest therein for valuable consideration and without notice of the fraud before the certificate was set aside.

**Interpretation of subsection (3)**

(4) A judgment creditor, whether or not the judgment creditor has registered the judgment, is not a purchaser within the meaning of subsection (3). R.S., c. 382, s. 17.

**Registration under Land Titles Act**

**20** (1) Any claim for a certificate of title may include a claim that it be registered under the Land Titles Act, being Chapter 47 of the Acts of 1903-04, or the claimant may subsequently apply not

later than one month after the issuance of the certificate of title to have it registered under the Land Titles Act.

**Conformity with Land Titles Act**

(2) The court or judge may direct that the certificate of title be issued to conform with the provisions of the Land Titles Act if the land is situated in a registration district to which that Act applies and in such case shall determine whether the certificate is to be issued for an absolute, a qualified or a possessory title.

**Duty of registrar of deeds**

(3) Where the court or judge orders that a certificate of title be registered under the Land Titles Act, the registrar of deeds shall proceed upon it as a decree issued under Section 30 of the Land Titles Act.

**Section 41 of Land Titles Act does not apply**

(4) Section 41 of the Land Titles Act does not apply to a certificate of title issued under this Act that is registered under the Land Titles Act. R.S., c. 382, s. 20.

## **Railways Act**

### CHAPTER 383 OF THE REVISED STATUTES, 1989

**amended** 1992, c. 14, s. 48

**Interpretation**

2(1) In this Act and in the special Act incorporating any railway company to which this Act or any part thereof applies, unless the context otherwise requires,

- (a) "company" means a railway company, and includes any person having authority to construct or operate a railway;
- (b) "county" includes any county in the Province and also any division thereof into separate municipalities;
- (c) "Court" means the Trial Division of the Supreme Court;
- (d) "goods" includes things of every kind that may be conveyed upon the railway, or upon steam-vessels or other vessels connected with the railway;
- (e) "highway" includes any public road, street, lane or other public way or communication;
- (f) "judge" means any judge of the Court;
- (g) "justice" means a justice of the peace acting for the county, municipality, city, town or place where the matter requiring the cognizance of a justice arises, and who is not interested in the matter, and when any matter is authorized or required to be done by two justices, the expression "two justices" shall be understood to mean two justices assembled and acting together;
- (h) "lands" means the lands, the acquiring, taking or using of which is incident to the exercise of the powers given by this Act or the special Act, and includes real property, messuages, lands, tenements and hereditaments of any tenure;
- (I) "lease" includes an agreement for a lease;
- (j) "map" or "plan" means a ground plan of the lands and property taken or intended to be taken;

- (k) "Minister" means the Minister of Transportation and Public Works;
- (l) "municipality" includes any city or incorporated town;
- (m) "owner", when, under the provisions of this Act or the special Act, any notice is required to be given to the owner of any lands, or when any act is authorized or required to be done with the consent of the owner, means any person who, under the provisions of this Act or the special Act, or any Act incorporated therewith, would be enabled to sell and convey lands to the company;
- (n) "provincial engineer" means the provincial engineer of the Province, and includes any engineer who is directed by the Governor in Council or by the Minister to examine any railway or works, and includes two or more engineers when two or more are so directed;
- (o) "railway" means any railway which the company has authority to construct or operate, and includes all stations, depots, wharves, rolling-stock, equipment, property and works connected therewith, and also any railway bridge or other structure which the company is authorized to construct under a special Act;
- (p) "railway company" or "company" includes any person being the owner or lessee of, or a contractor working, any railway constructed or carried on under the powers of any statute of the Province;
- (q) "sheriff" means the sheriff of the county within which are situated any lands in relation to which any matter is required to be done by a sheriff, and includes a deputy sheriff or other lawful deputy of the sheriff;
- (r) "special Act" means any Act under which the company has authority to construct or operate a railway, or which is enacted with special reference to such railway, and includes all such Acts;
- (s) "toll" includes any rate or charge made for the conveyance of any passenger, goods, or carriage, or for the collection, loading, unloading, cording or delivery of goods, or for warehousing or wharfage, or other services incidental to the business of a carrier;
- (t) "traffic" includes not only passengers and their baggage, goods, animals and things conveyed by railway, but also cars, trucks and vehicles of any description adapted for running over any railway;
- (u) "the undertaking" means the railways and works, of whatsoever description, which the company has authority to construct or operate;
- (v) "working expenditure" means and includes
- (I) all expenses of maintenance of the railway, and of the stations, buildings, works and conveniences belonging thereto, and of the rolling and other stock and movable plant used in the working thereof,
  - (ii) all such tolls, rents or annual sums as are paid in respect of property leased to or held by the company, apart from the rent of any leased line, or in respect of the hire of engines, carriages or wagons let to the company,
  - (iii) all rent, charges or interest on the purchase money of lands belonging to the company, purchased but not paid for, or not fully paid for,
  - (iv) all expenses of or incidental to working the railway, and the traffic thereon, including stores and consumable articles,
  - (v) rates, taxes, insurance and compensation for accidents or losses,
  - (vi) all salaries and wages of persons employed in and about the working of the railway and traffic,

- (vii) all office and management expenses, including directors' fees, agency, legal and other like expenses, and
- (viii) generally all such charges, if any, not above otherwise specified, as in all cases of English railway companies are usually carried to the debit of revenue as distinguished from capital account.

**"near" defined**

(2) A railway shall be deemed to come "near" to another when some part of the one is within one mile of some part of the other.

**Lands in more than one municipality**

(3) When any matter arises in respect of any lands which are the property of one and the same person, and which are not situated wholly in any one county, municipality, city, town or place, "municipal clerk," or "clerk," "justice," and "sheriff" respectively, mean any clerk of the council, justice or sheriff for any municipality, county, city, town or place within which any portion of such lands is situated. R.S., c. 383, s. 2; 1992, c. 14, s. 48; 1996, c. 8, s. 17.

**Powers of company**

- 86** The company may, subject to the provisions in this Act and the special Act contained,
- (a) enter into and upon any lands of Her Majesty without previous licence therefor, or into and upon the lands of any person whomsoever, lying on the intended route or line of the railway and make surveys, examinations or other necessary arrangements on such lands for fixing the site of the railway, and set out and ascertain such parts of the lands as are necessary and proper for the railway;
  - (b) receive, take and hold all voluntary grants and donations of lands or other property or any bonus of money or debenture, or other benefit of any sort, made to it for the purpose of aiding in the construction, maintenance and accommodation of the railway, but the same shall be held and used for the purpose of such grants or donations only;
  - (c) purchase, take and hold, of and from any person, any lands or other property necessary for the construction, maintenance, accommodation and use of the railway, and also alienate, sell or dispose of so much thereof as is not necessary for the purposes of the railway;
  - (d) make, carry or place the railway across or upon the lands of any person on the located line of the railway, or within one mile thereof, or within such further distance from such line as is prescribed in the special Act;
  - (e) fell or remove any trees which stand within six rods from either side of the railway or which are liable to fall across the railway track;
  - (f) cross, intersect, join and unite the railway with any other railway at any point on its route, and upon the lands of such other railway, with the necessary conveniences for the purposes of such connection;
  - (g) make or construct in, upon, across, under or over any railway, tramway, river, stream, watercourse, canal or highway which it intersects or touches, temporary or permanent inclined planes, tunnels, embankments, aqueducts, bridges, roads, ways, passages, conduits, drains, piers, arches, cuttings and fences;
  - (h) divert or alter, as well temporarily as permanently, the course of any such river, stream, watercourse or highway, or raise or sink the level thereof in order the more conveniently to carry the same over, under or by the side of the railway;
  - (I) make drains or conduits into, through or under any lands adjoining the railway,

- for the purpose of conveying water from or to the railway;
- (j) divert or alter the position of any water-pipe, gas-pipe, sewer or drain, or any telegraph, telephone or electric light wire or pole;
  - (k) make, complete, alter and keep in repair the railway, with one or more sets of rails or tracks, to be worked by the force and power of steam or of electricity, or of the atmosphere, or of animals, or by mechanical power, or by any combination of them;
  - (l) erect and maintain all necessary and convenient buildings, stations, depots, wharves and fixtures, and construct, purchase and acquire stationary or locomotive engines and carriages, wagons, floats and other machinery necessary for the accommodation and use of the passengers, freight and business of the railway;
  - (m) construct or acquire electric telegraph and telephone lines for the purposes of its undertaking;
  - (n) make branch railways, if required and provided for by this or the special Act, and manage the same, and for that purpose exercise all the powers, privileges and authorities necessary therefor, in as full and ample a manner as for the railway;
  - (o) take, transport, carry and convey persons and goods on the railway, regulate the time and manner in which the same shall be transported, and the tolls and compensation to be paid therefor, and receive such tolls and compensation;
  - (p) from time to time alter, repair or discontinue the before mentioned works or any of them, and substitute others in their stead;
  - (q) do all other acts necessary for making, maintaining, altering or repairing and using the railway. R.S., c. 383, s. 86.

#### **Alienation of land acquired from Crown**

**88** (1) Any company that has obtained from the Crown by way of subsidy or otherwise, in respect to the construction or operation of its railway, a right to any land or to an interest in land, has, and from the time of obtaining such right has had, as incidental to the exercise of its corporate powers, authority to acquire, sell or otherwise dispose of the same or any part or parts thereof.

#### **Conveyance to another company**

(2) Such company may convey the same, or any part or parts thereof, to any other company that has entered into any undertaking for the construction or operation, in whole or in part, of the railway in respect to which such land or interest in land was given, and thereafter such other company shall have, in respect to such land or interest in land, the same authority as that of the company which has so conveyed it.

#### **Other lands**

(3) As to any lands given to the company by any corporation or other party, as aid towards, or as consideration in whole or in part for, the construction or operation of the company's railway, either generally or with respect to the adoption of any particular route, or on any other account, the authority of the company and of any other company to which it may convey its right in any of the said lands shall be the same as if such lands had been obtained by the company from the Crown as aforesaid. R.S., c. 383, s. 88.

#### **Possession or use of Crown land**

**96** (1) No company shall take possession of, use or occupy any lands vested in Her Majesty, without the consent of the Governor in Council, but with such consent any such company may, upon such terms as the Governor in Council prescribes, take and appropriate, for the use of its railway and works, but not alienate, so much of the lands of the Crown lying on the route of the

railway as have not been granted or sold and as is necessary for such railway, as also so much of the public beach or of the land covered with the waters of any lake, river, stream or canal, or of their respective beds, as is necessary for making and completing and using its said railway and works.

**Special purpose or trust**

(2) Whenever any such lands are vested in Her Majesty for any special purpose, or subject to any trust, the compensation money which the company pays therefor shall be held or applied by the Governor in Council for the like purpose or trust. R.S., c. 383, s. 96.

**Extent of land to be taken without consent of owner**

**98** The lands which may be taken without the consent of the owner thereof shall not exceed thirty-three yards in breadth, but in places where the railway is raised more than five feet higher or cut more than five feet deeper than the surface of the line, or where offsets are established, or where stations, depots or fixtures are intended to be erected or goods to be delivered, the lands which may be taken without the consent of the owner shall not be more than six hundred and fifty yards in length by one hundred yards in breadth except where more ample space for the accommodation of the public, or of the traffic on the railway, or for protection against snow drifts, is required, in which cases such greater quantity of land or land covered with water may be taken as the Minister authorizes. R.S., c. 383, s. 98.

**If extra breadth to be taken**

**99** The places at which such extra breadth is to be taken shall be shown on the map or plan, so far as the same are then ascertained, but the fact of their not being so shown shall not prevent such extra breadth from being taken, if it is taken upon the line shown, or within one mile thereof, or within such further distance from such line as is prescribed in the special Act. R.S., c. 383, s. 99.

**Registration of copy of plan and certificate**

**105** A copy of the duplicate of such map or plan and book of reference and statement and of such certificate shall be deposited in the office of the registrar of deeds for the registration district in which the lands lie. R.S., c. 383, s. 105.

**Right of entry on land within 200 yards of railway line**

**107** (1) The company, either for the purpose of constructing or repairing its railway or for the purpose of carrying out the requirements of the Governor in Council, or in the exercise of the powers conferred upon it by the Governor in Council, may enter upon any land which is not more than two hundred yards distant from the centre of the located line of the railway, and may occupy the said land as long as is necessary for the purposes aforesaid.

**Application of law**

(2) All the provisions of law at any time applicable to the taking of land by the company, and its valuation, and the compensation therefor, shall apply to the case of any land so required.

**Prerequisite to entry**

(3) Before entering upon any land for the purposes aforesaid, the company shall, in case the consent of the owner is not obtained, pay into the office of the prothonotary of the Supreme Court for the county in which the land is situated, such sum, with interest thereon for six months, as is, after two clear days' notice to the owner of the land, or to the person empowered to convey the same or interested therein, fixed by a judge. R.S., c. 383, s. 107.

**Surveys and levels**

**118** (1) Surveys and levels shall be made and taken of the lands through which the railway is to pass, together with a map or plan and profile thereof, and of its course and direction, and of the lands intended to be passed over and taken therefor, as far as then ascertained.

**Book of reference**

(2) A book of reference for the railway shall also be made, in which shall be set forth

- (a) a general description of the said lands;
- (b) the names of the owners and occupiers thereof, as far as they can be ascertained; and
- (c) everything necessary for the right understanding of such map or plan and profile. R.S., c. 383, s. 118.

**Nature and deposit of plan and book of reference**

**119** The map or plan and book of reference and profile may be made of sections of the railway and shall be deposited at the office of the Minister. R.S., c. 383, s. 119.

**Certification and filing of duplicate**

**120** The map or plan and book of reference and profile shall be examined and certified by the Minister or by the provincial engineer, and a duplicate thereof, so examined and certified, shall be deposited at the office of the Minister and the company shall deposit copies of such map or plan and book of reference and profile, or of such parts thereof as relate to each registration district through which the railway is to pass, in the offices of the registrars of deeds for such districts respectively. R.S., c. 383, s. 120.

**Duty to deposit plan of alteration**

**125** If any alterations from the original plan or survey are intended to be made in the line or course of the railway, a map or plan and profile of such alterations, on the same scale and containing the same particulars as the original map or plan and profile, shall be deposited in the same manner as the original map or plan and profile, and copies of or extracts from such map or plan and profile, so far as they relate to the several registration districts in or through which such alterations are intended to be made, shall be deposited with the registrars of deeds of such districts. R.S., c. 383, s. 125.

**Effect of conveyance**

**134** (1) Any contract, agreement, sale, conveyance and assurance so made under this Act shall be valid and effectual in law, to all intents and purposes whatsoever, and shall vest in the company receiving the same the fee simple in the lands in such deed described, freed and discharged from all trusts, restrictions and limitations whatsoever.

**Indemnification**

(2) The person so conveying is hereby indemnified for what he does by virtue of or in pursuance of this Act. R.S., c. 383, s. 134.

**Compensation for damage**

**139** (1) After the expiration of ten days from the deposit of the map or plan or book of reference in the office of the registrar of deeds, and after notice thereof has been given in at least one newspaper, if there is any, published in each of the counties through which the railway is intended to pass, application may be made to the owners of lands, or to persons empowered to convey lands or interested in lands which may suffer damage from the taking of materials or the exercise of any of the powers granted for the railway and, thereupon, agreements and contracts may be made with such persons, touching the said lands or the compensation to be paid for the same, or for the damages, or as to the mode in which such compensation shall be ascertained, as

seems expedient to both parties.

### **Where disagreement**

(2) In case of disagreement between them, or any of them, all questions which arise between them shall be settled as in this Act provided. R.S., c. 383, s. 139.

### **Effect of deposit of plan and notice thereof**

**140** The deposit of a map or plan and book of reference, and the notice of such deposit, shall be deemed a general notice to all the parties, of the lands which will be required for the railway and works, and the date of such deposit shall be the date with reference to which such compensation or damages shall be ascertained. R.S., c. 383, s. 140.

### **Content of notice**

**141** The notice served upon the party shall contain

- (a) a description of the lands to be taken, or of the powers intended to be exercised with regard to any lands, and describing the lands;
- (b) a declaration of readiness to pay some certain sum or rent, as the case may be, as compensation for such lands or for such damages; and
- (c) the name of a person to be appointed as the arbitrator of the company, if its offer is not accepted. R.S., c. 383, s. 141.

### **Accompanying certificate**

**142** Such notice shall be accompanied by the certificate of a sworn surveyor, who is a disinterested person and is not the arbitrator named in the notice, which certificate shall state

- (a) that the land, if the notice relates to the taking of land shown on the said map or plan, is required for the railway, or is within the limits of deviation by this Act allowed;
- (b) that he knows the land, or the amount of damage likely to arise from the exercise of the powers; and
- (c) that the sum so offered is, in his opinion, a fair compensation for the land and damage aforesaid. R.S., c. 383, s. 142.

### **Plan and proposed site of work**

**173** (1) No company shall construct any wharf, bridge, pier or other work upon or over any navigable river or lake, or upon the beach or bed or lands covered with the waters thereof, until it has first submitted the plan and proposed site of such work to the Governor in Council and the same has been approved.

### **Deviation from plan or site**

(2) No deviation from such approved site or plan shall be made without the consent of the Governor in Council. R.S., c. 383, s. 173.

## **Registry Act**

### CHAPTER 392

#### OF THE

#### REVISED STATUTES, 1989

**amended** 1992, c. 16, ss. 105-110; 1994-95, c. 7, ss. 99, 100, 150;  
1995-96, c. 13, s. 84

### **Interpretation**

**2** In this Act,

- (a) "copied" includes reproduced by a photographic process;
- (b) "district" means a registration district as defined in this Act;
- (c) "grantee" includes assignee, devisee, or other person obtaining or acquiring or seeking to obtain or acquire an interest in or lien, claim, charge, or encumbrance upon real estate;
- (d) "grantor" includes assignor, testator or other person disposing of an interest in real estate or upon whose real estate a lien, claim, charge or other encumbrance is, or is sought or intended to be, made, created, acquired or obtained;
- (e) "instrument" means every conveyance or other document by which the title to land is changed or in any wise affected, and also an attachment order, a certificate of judgment, a lease for a term exceeding three years, and a vesting order, but does not include a grant from the Crown, a will, or a report of commissioners appointed to make partition;
- (f) "judgment" includes any final decree of the Court of Appeal, the Supreme Court, a probate court, the Supreme Court of Canada or the Federal Court of Canada requiring the payment of money by any person;
- (g) "registrar" means a registrar of deeds;
- (h) "registry" means the office of a registrar. R.S., c. 392, s. 2; 1992, c. 16, s. 105.

### **Counties as registration districts**

**3** (1) Each one of the counties in the Province except the Counties of Cumberland, Lunenburg, Guysborough and Shelburne shall constitute a registration district.

### **Districts as registration districts**

(2) Each one of the two districts of Cumberland and Parrsboro in the County of Cumberland, each one of the two districts of Lunenburg and Chester in the County of Lunenburg, each one of the two districts of Guysborough and St. Marys in the County of Guysborough and each of the two districts of Shelburne and Barrington in the County of Shelburne shall constitute a registration district.

### **Combining of registration districts**

(3) The Governor in Council may at any time, by proclamation in the Royal Gazette,

- (a) combine into one registration district the two districts of Cumberland and Parrsboro;
- (b) combine into one registration district the two districts of Lunenburg and Chester;
- (c) combine into one registration district the two districts of Guysborough and St. Marys;
- (d) combine into one registration district the two districts of Shelburne and Barrington,

and may in such proclamation fix the location of the registry of the combined district.

NOTE - The Governor in Council by proclamation published in the Royal Gazette on June 25, 1947, combined into one registration district, to be known as the Registration District of the County of Cumberland, the two districts of Cumberland and Parrsboro and fixed the location of the registry of the combined district at the Town of Amherst.

The Governor in Council by proclamation published in the Royal Gazette on January 1, 1996,

- (i) combined into one registration district, the Registration District of Shelburne, and the Registration District of Barrington, to be known as the Registration District of the County of Shelburne, and the location of the registry for the combined registration district be fixed at the Town of Shelburne, Shelburne County,
- (ii) combined into one registration district, the Registration District of Guysborough, and the Registration District of St. Marys, to be known as the Registration District of the County of Guysborough, and the location of the registry for the combined registration

district be fixed at the community of Guysborough, Guysborough County, (iii) combined into one registration district, the Registration District of Lunenburg, and the Registration District of Chester, to be known as the Registration District of the County of Lunenburg, and the location of the registry for the combined registration district be fixed at the Town of Bridgewater, Lunenburg County.

**Directions upon combining of districts**

(4) Upon any such two districts being so combined, the Governor in Council may from time to time give such directions and instructions as may be deemed necessary for the removal of records and other things to the registry of the combined district and for the organization or reorganization of such registry and the consolidation of records therein, and for any other matters incidental to the combining of such districts.

**Combined district deemed registration district**

(5) Every registration district created under subsection (3) shall be deemed to be a registration district defined in this Act. R.S., c. 392, s. 3.

**Registrar of deeds**

**4** (1) A registrar of deeds shall be appointed for each district of the Province in accordance with the Civil Service Act.

**Consolidated index**

**11** (1) Every registrar shall keep a double index to the books of registry to be called the consolidated index and such index shall show the nature of the instrument and

- (a) in the case of judgments, orders of court, attachment orders, and appraisements, the name and residence of every plaintiff, defendant, judgment creditor and judgment debtor, if and as the same appears in such judgment, order, attachment or appraisal;
- (b) in the case of other instruments, the name and residence of
  - (I) every grantor, and
  - (ii) every grantee; and
- (c) in every case the location of the lands affected, if the same appear in the instrument, the year in which the instrument is registered, the number, or letter, and page of the book in which it is registered.

**Arrangement of entry in index**

(2) In making up such indexes on the left-hand page of such book, and under its proper initial letter shall be alphabetically arranged the name of every grantor, defendant or judgment debtor, in the column headed "grantor", together with the other particulars required by subsection (1) to be shown, and on the right-hand side thereof under its proper initial letter the name of every grantee, plaintiff or judgment creditor, in the column headed "grantee", together with the other particulars required by subsection (1) to be shown and the names under each initial shall be arranged in strict alphabetical order having regard to all the letters of the surname and Christian names and the names of corporations shall be in strict alphabetical order, except where the first word of the name is "The" it shall be indexed under the second word of such name.

**Indexing of judgment**

(3) Judgments shall be indexed under their proper initial letters in books by themselves.

**Indexing of grantors for certain deeds**

(4) In case of deeds by executors, administrators, trustees, sheriffs and other officers, and tax deeds, the index shall show as a grantor the name of the person whose property is thereby conveyed or intended to be conveyed, as well as the name of such executor, administrator,

trustee, sheriff or other officer.

### **Current index book**

(5) As soon as an instrument is lodged for registry, it shall be entered in an index to be called the Current Index Book, and such book shall show all the particulars set out in subsection (1) and shall in all respects conform to the requirements of subsection (2), except that instead of the names being arranged in strict alphabetical order, it shall be sufficient to so arrange them that all having the first letter of the surname identical shall be grouped together.

### **Consolidation of current indexes**

(6) The current indexes shall be consolidated in the manner required by subsections (1) and (2) at the end of every ten year period or at the end of such other period greater or less than ten years as the Governor in Council may in the case of any registry from time to time prescribe.

### **Nature and form of indexes**

(7) The indexes shall be typewritten, with indelible ink ribbon on loose leaves, the same to be bound and locked in sectional post binders, and shall be in the form contained in the Schedule to this Act.

### **Duty to maintain consolidated index**

(8) It shall be the duty of every registrar to prepare and maintain consolidated indexes of all instruments recorded in his office and in the making up of such consolidated indexes he shall give the particulars and otherwise conform to the requirements of this Act and any other Act of the Legislature.

(9) repealed 1994-95, c. 7, s. 100.

(10) repealed 1994-95, c. 7, s. 100.

### **Regulations**

(11) The Governor in Council may make regulations

- (a) prescribing the size, quality and type of books and stationery to be used in the recording of instruments and other matters of record and in the preparation of index and other books;
- (b) prescribing card index and other index systems and equipment to be used with or in substitution for any books or equipment prescribed by this Act;
- (c) prescribing the type of filing and storage equipment for instruments, books and other matters of record;
- (d) prescribing the size and manner of filing of plans;
- (e) generally, for the proper uniform and expeditious carrying out of the requirements of this Act.

### **Appointee to oversee preparation of indexes**

(12) The Governor in Council may appoint such person or persons as may be necessary to oversee the preparation of such indexes, and may prescribe the duties and fix the remuneration of any person so appointed, and the remuneration may be paid out of the Consolidated Fund of the Province. R.S., c. 392, s. 11; 1994-95, c. 7, s. 100.

### **Registration of Crown grant**

**16** Every grant from the Crown of any land shall when completed be transmitted, together with a plan of such land in duplicate, by the Minister of Lands and Forests to the registrar of the district in which such land is situated, and the registrar shall register the same in one of the books furnished for that purpose by the Governor in Council, and shall attach to such registry one of such duplicate plans and shall enter the name of the grantor in his index. R.S., c. 392, s. 16.

**Registration of will**

**17** Every registrar shall, without requiring any proof thereof, register the copy of any will deposited with him by any registrar of probate, and enter the name of the testator in his index, but the failure to comply with the requirement of this Section shall not defeat any title. R.S., c. 392, s. 17.

**Effect of failure to register instrument**

**18** Every instrument shall, as against any person claiming for valuable consideration and without notice under any subsequent instrument affecting the title to the same land, be ineffective unless the instrument is registered in the manner provided by this Act before the registering of such subsequent instrument. R.S., c. 392, s. 18.

**No notice within meaning of Section 18**

**18A** For greater certainty and subject to Section 50 of the Personal Property Security Act, no person contracting or dealing with or taking or proposing to take a transfer of or an interest in land is affected by a registration in the Personal Property Registry, whether or not that person has notice or knowledge of the registration, and such notice or knowledge is not notice within the meaning of Section 18. 1995-96, c. 13, s. 84.

**Registration of change of name if interest in property**

**19** (1) Where a person's name is changed and at the time of the name change he has an interest in property evidenced by an instrument filed or registered pursuant to this Act, he may record the change of name by

- (a) reciting the change of name in a subsequent conveyance of that property interest; or
- (b) filing or registering in the registration district where the lands are situate, a certificate of a change of name issued under the Change of Name Act or a statutory declaration of the name change.

**Indexing of change of name**

(2) A registrar who receives a conveyance, certificate or statutory declaration conforming to subsection (1) shall record and index it as a conveyance from the former name of the person concerned to the new name. R.S., c. 392, s. 19.

**Registration of power of attorney required**

**24** The registry of any instrument executed under a power of attorney shall not be valid or effectual unless such power of attorney, or a deed subsequently confirming the authority given thereby, is registered in the manner provided by this Act in the registry in which such instrument is lodged for registration. R.S., c. 392, s. 24.

**Lease for more than three years**

**25** Every lease of land for any term exceeding three years shall, as against any person claiming under any subsequent instrument, be ineffective unless registered in the manner provided in this Act previous to the registering of such subsequent instrument. R.S., c. 392, s. 25.

**District for registration of instrument**

**28** (1) Every instrument, other than a certificate of judgment, shall be registered in the registry of the district in which the lands mentioned in such instrument, or in the description accompanying an attachment order, are situated.

**District for registration of certificate of judgment**

(2) Certificates of judgment may be registered in any district in which any land of the person against whom the same is recorded is situated. R.S., c. 392, s. 28.

**Entry of instrument and accompanying plan**

**29** Every instrument shall be copied into one of the books of registry so as to be as nearly as possible a transcript of the original, and a copy of any plan or schedule to such instrument annexed shall be entered in such book together with the registry of the instrument. R.S., c. 392, s. 29.

**Proof of execution prerequisite to registration**

**30** (1) Before any instrument is registered the execution thereof shall be proved in the manner in this Act specified.

**Execution by one or more parties to be proved**

(2) Any instrument may be registered where the signature of one or more of the parties thereto is proved. R.S., c. 392, s. 30.

**Manner of proof of execution**

**31** The execution of any instrument, except where otherwise provided, may be proved

- (a) by the acknowledgment under oath by the parties executing any such instrument of the execution thereof; or
- (b) by the oath of a subscribing witness to any such instrument that the parties thereto executed the same in his presence. R.S., c. 392, s. 31.

**Who may administer oath within Province**

**32** (1) Such acknowledgment may be taken or oath administered within the Province by

- (a) any registrar;
- (b) a judge of the Supreme Court;
- (c) a notary public;
- (d) a barrister of the Supreme Court;
- (e) a justice of the peace;
- (f) a commissioner of the Supreme Court;
- (g) a person authorized to administer an oath or take and receive an affidavit, affirmation or declaration within the Province for use within the Province.

**Certificate of execution**

(2) The person taking such acknowledgment or administering such oath shall sign a certificate indorsed upon or attached to the instrument of such acknowledgment having been made or oath administered, and such certificate shall be registered together with the instrument. R.S., c. 392, s. 32; 1992, c. 16, s. 108.

**Who may administer oath outside Province**

**33** (1) Such acknowledgment may be taken or oath administered without the Province by any person or functionary named in Section 67 of the Evidence Act or by any person or functionary authorized by any law of the Province to administer an oath or take and receive an affidavit, affirmation or declaration without the Province for use within the Province.

**Certificate of execution**

(2) Where pursuant to subsection (1) a person takes an acknowledgment or administers an oath he shall indorse upon or attach to the instrument a certificate signed by him that he has taken the acknowledgment or administered the oath.

**Registration of certificate**

(3) The certificate shall be registered with the instrument without proof of the signature or of the official character or appointment of the person who signed or purported to sign the certificate. R.S., c. 392, s. 33.

**Regulations Act**  
 CHAPTER 393  
 OF THE  
 REVISED STATUTES, 1989  
 amended 1996, c. 23, ss. 29, 30

**Interpretation**

**2** In this Act,

- (a) "Deputy Attorney General" means the Deputy Attorney General and includes a barrister employed in the Department of the Attorney General;
- (b) "file" means file with the Registrar in the manner prescribed in Section 3;
- (c) "local authority" means a city, town, municipality, service commission or village as defined by the Municipal Affairs Act, and includes a corporation thereof, and every school board, board of school trustees, local board of health and every other board, commission, committee, body or authority established or exercising power or authority under a general or special Act with respect to the affairs or purposes of a city, town, municipality, service commission or village;
- (d) "Minister" means the member of the Executive Council to whom the administration of this Act is assigned by the Governor in Council;
- (e) "publish" means publish in the manner prescribed in Section 4;
- (f) "Registrar" means the Registrar of Regulations appointed under this Act;
- (g) "regulation" means a rule, order, proclamation, regulation, by-law, form, resolution or tariff of costs or fees made in the exercise of a legislative power conferred by or under an Act of the Legislature
  - (i) by the Governor in Council,
  - (ii) by the minister presiding over any department of the public service of the Province or by any official of such department, whether or not such regulation is subject to the approval of the Governor in Council,
  - (iii) by any board, commission, agency or body listed in the Schedule to this Act or added thereto by the Governor in Council in accordance with this Act, whether or not such regulation is subject to the approval of the Governor in Council, or
  - (iv) the exercise of which power is declared by the Act conferring it to be a regulation within the meaning of this Act,
 but does not include a rule, order, proclamation, regulation, by-law, form, resolution or tariff of costs or fees made by
  - (v) a local authority, or
  - (vi) a corporation incorporated by private or public Act of the Legislature or by the board of directors or the board of management of such corporation unless it is a board, commission, agency or body listed in the Schedule or added thereto by the Governor in Council in accordance with this Act;
- (h) "regulation-making authority" means any authority authorized to make regulations and, with reference to any particular regulation or proposed regulation, means the authority that made or proposes to make the regulation. R.S., c. 393, s. 2.

**Filing of regulation**

**3** (1) Every regulation or a certified copy thereof shall be filed in duplicate with the Registrar, together with two copies of a certificate signed by the person filing the regulation setting forth

- (a) by whom the regulation was made;
- (b) the Act and the Section under which the regulation was made;
- (c) the date on which the regulation was made; and
- (d) where approval by another authority is required, the date of approval and two copies of the certificate referred to in subsection (2).

**Certificate of approval**

(2) Where approval of a regulation by another authority is required, the approving authority or a responsible officer thereof shall give a certificate of approval to the authority making the regulation when the approval has been given.

**If made or approved by Governor in Council**

(3) Where a regulation is made or approved by the Governor in Council, the Clerk of the Executive Council shall file with the Registrar two copies of the regulation certified by the Clerk of the Executive Council to be true copies and the filing of those copies is deemed compliance with subsections (1) and (2).

**If amendment before filing**

(4) Where, before the filing thereof, a regulation has been amended by any subsequent regulation, the filing of the first-mentioned regulation as amended is deemed to be compliance with this Section.

**Accompanying document**

(5) Where

- (a) a diagram, map or plan forms part of a regulation;
- (b) a regulation approves the form or substance of an agreement or other document; or
- (c) a regulation adopts any other regulation or a code or a document as forming part of the regulation as if enacted therein,

a copy of the map, plan, agreement, regulation, code or document shall be filed with the Registrar, and the Registrar may thereupon, at his discretion, dispense with the publication of the diagram, map, plan, agreement, regulation, code or document.

**Effective date of regulation**

(6) Unless a later day is provided, a regulation comes into force on the day it is filed with the Registrar and in no case does such a regulation come into force before the day of filing unless specifically authorized by the Act authorizing it.

**Failure to file**

(7) Notwithstanding any other statute or law, a regulation that has not been filed is of no effect.

**Effective date of subsections (6) and (7)**

(8) Subsections (6) and (7) come into force on and not before such day as the Governor in Council orders and declares by proclamation. R.S., c. 393, s. 3.

**Publication of regulation**

**4** (1) The Registrar shall, within thirty days of the day upon which a regulation is filed, publish the regulation in the Royal Gazette.

**Extension of time for publication**

(2) The Governor in Council may at any time, by order, extend the time for publication of a regulation.

**Dispensing with publication**

(3) Where a regulation, in the opinion of the Governor in Council, is of such length as to render publication thereof in the Royal Gazette unnecessary or undesirable, the Governor in Council, by order, may dispense with the publication thereof, and the regulation upon filing is as valid against all persons as if it had been published.

**Publication of notice of order**

(4) Where by order of the Governor in Council the time for publication of a regulation is extended or publication thereof is dispensed with, the Registrar shall publish the order or a notice of the order in the Royal Gazette within thirty days after the making thereof.

**Content of notice**

(5) Where, under subsection (4), a notice dispensing with the publication of an order is published in the Royal Gazette, the notice shall state that copies of the regulation are filed with the

Registrar and may be inspected at the Registrars office and that copies may be obtained from the Registrars office, from the Queens Printer or from the office or the department concerned, as the case may be. R.S., c. 393, s. 4.

**Failure to publish regulation**

**6** No regulation is invalid by reason only that it has not been published, but no person shall be affected adversely or be convicted of a contravention of a regulation that, on the date of the alleged contravention or the date the person is affected adversely, had not been published unless

(a) either

(i) publication of the regulation has been dispensed with under subsection (3) of Section 4, or

(ii) the Act under which the regulation was made provides that a regulation made under the Act may be brought into force before it is published in the Royal Gazette; and

(b) it is proved that, before the date of the alleged contravention or the date a person is affected adversely, reasonable steps had been taken for the purpose of bringing the purport of the regulation to the notice of the public or of the persons likely to be affected by it or of the person charged. R.S., c. 393, s. 6.

## **Sale of Land Under Execution Act**

CHAPTER 409

OF THE

REVISED STATUTES, 1989

**Interpretation**

**2** In this Act,

(a) "judgment" includes a judgment and a final order or decree in any action, whether of a legal or equitable nature, requiring or ordering the payment of money or costs by any

party to the judgment;

(b) "judgment creditor" includes the party entitled to such payment, whether plaintiff or defendant, and also the assignee of a judgment creditor, and the executor or administrator of a deceased judgment creditor;

(c) "judgment debtor" includes the party required to make such payment, whether plaintiff or defendant, and also the assigns of a judgment debtor, and the heirs, executors or administrators of a deceased judgment debtor;

(d) "land" includes the possessory right and right of entry of a judgment debtor, and also the interest of a mortgagor, or any equitable interest in land which may by this Act be sold under execution;

(e) "mortgagor" includes the assigns of a mortgagor, and the heirs, executors or administrators of a deceased mortgagor;

(f) "purchaser" includes the heirs and assigns of such purchaser. R.S., c. 409, s. 2.

#### **Sale of land under execution**

**4** The land of every judgment debtor may be sold under execution after the judgment has been registered for one year in the registry of deeds of the registration district in which the land is situated. R.S., c. 409, s. 4.

#### **Deed to purchaser**

**13** The sheriff shall execute to the highest bidder, or his nominee, a deed of land so sold, which shall be sufficient to convey to the purchaser named in the deed all the interest of the judgment debtor in such land bound by the judgment. R.S., c. 409, s. 13.

#### **Deed as prima facie evidence**

**14** A deed executed by a sheriff, and purporting to convey land sold under execution, is prima facie evidence of the proceedings referred to therein, that the requirements of this Act were duly complied with and that the interest of the debtor bound by the judgment against the debtor had been conveyed by such deed to the purchaser. R.S., c. 409, s. 14.

## **Special Places Protection Act**

### CHAPTER 438

### OF THE

### REVISED STATUTES, 1989

amended 1990, c. 45; ; 1994-95, c. 17

#### **Purpose of Act**

**2** The purpose of this Act is to

(a) provide for the preservation, protection, regulation, exploration, excavation, acquisition and study of archaeological and historical remains and palaeontological sites which are considered important parts of the natural or human heritage of the Province;

(b) provide for the preservation, protection, regulation, acquisition and study of ecological sites which are considered important parts of the natural heritage of the Province and, notwithstanding the generality of the foregoing, preserve, regulate, acquire and study those ecological sites that

- (I) are suitable for scientific research and educational purposes,
  - (ii) are representative examples of natural ecosystems within the Province,
  - (iii) serve as examples of ecosystems that have been modified by man and offer an opportunity to study the natural recovery of ecosystems from such modification,
  - (iv) contain rare or endangered native plants or animals in their natural habitats,
  - (v) provide educational or research field areas for the long-term study of natural changes and balancing forces in undisturbed ecosystems; and
- (c) promote understanding and appreciation among the people of the Province of the scientific, educational and cultural values represented by the establishment of special places. R.S., c. 438, s. 2.

### **Interpretation**

#### **3** In this Act,

- (a) "Committee" means the Advisory Committee on the Protection of Special Places;
- (aa) "heritage object" means an archaeological, historical or palaeontological object or remain but does not include such an object to which the Treasure Trove Act applies;
- (b) "Minister" means the Minister of Education;
- (c) "Museum" means the Nova Scotia Museum;
- (d) "registered owner" means an owner of land whose interest in the land is defined and whose name is specified in an instrument in the registry of deeds, and includes a person shown as a tenant of land on the last revised assessment roll;
- (e) "special places" means those places referred to in Section 2. R.S., c. 438, s. 3; 1990, c. 45, s. 1.

### **Act binds Crown**

- 4** (1) This Act binds Her Majesty in right of the Province.  
 (2) repealed 1990, c. 45, s. 2. R.S., c. 438, s. 4; 1990, c. 45, s. 2.

### **Duties and powers**

- 6** The Committee shall be responsible to the Minister and shall have power to
- (a) make recommendations to the Minister concerning the administration, classification and acquisition of special places;
  - (b) conduct research with respect to existing and possible future special places;
  - (c) recommend regulations to the Minister with respect to management plans and other matters related to ecological sites;
  - (d) conduct research concerning the possible removal from designation of existing special places;
  - (e) ensure that, if a special places designation is being considered that appears to effect the operation of some other public Act, the persons charged with the administration of that Act have the opportunity to make representations to the Committee before any recommendations are made to the Minister;
  - (f) do any other thing which the Minister may assign the Committee with respect to assisting him in the proper administration of this Act. R.S., c. 438, s. 6.

### **Designation of protected site**

- 7** (1) The Minister, with the approval of the Governor in Council, may designate any land within the Province, including land covered with water, that has outstanding archaeological, historical or

palaeontological significance as a protected site.

#### **Content and filing of designation**

(2) A designation made pursuant to subsection (1) shall contain a description of the land sufficient to identify it and a copy of the designation shall be deposited in the registry of deeds for the registration district in which the land is situated.

#### **Publication of designation**

(2A) Every designation of a protected site shall be published in one edition of the Royal Gazette and the effective date of such designation shall be the date of the publication of the aforesaid designation in the Royal Gazette.

#### **Description of protected site**

(2B) Such publication shall contain a description of the protected site sufficient to identify the boundaries of same.

#### **Signs**

(3) The Minister may place appropriate signs or other devices at a protected site indicating that the land is a protected site, but no sign or device is required to be placed at a site.

#### **Procedure for designation of private land**

- (4) Where the land to be so designated is privately owned,
- (a) the Minister shall cause notice of the intention to designate to be served upon each registered owner not less than thirty days prior to designation;
  - (b) the owner may comment upon the proposed designation within the period of time specified by the Minister; and
  - (c) no person shall be entitled to any damages for compensation for injurious affection as a result of the designation of land or land covered with water. R.S., c. 438, s. 7; 1990, c. 45, s. 3.

#### **Recommendation to terminate designation**

**7A** (1) Where it appears to the Committee that the continued designation of land as a protected site is inappropriate, the Committee may recommend to the Minister that the designation be terminated.

#### **Notice of proposed recommendation**

(2) Before making a recommendation pursuant to subsection (1), the Committee shall give notice of the proposed recommendation in a newspaper circulating in the Province giving at least thirty days for receipt by the Committee of written submissions by the public and, where the land is privately owned, the notice shall be served on the registered owner of the land.

#### **Time for recommendation**

(3) The Committee shall not make a recommendation pursuant to subsection (1) until thirty days following the deadline for receipt of written submissions pursuant to subsection (2).

#### **Termination**

(4) Upon receipt by the Minister of a recommendation pursuant to this Section to terminate a designation, the Minister may, with the approval of the Governor in Council, terminate the designation.

#### **Notice of termination**

(5) Where the Minister terminates the designation of land, the Minister shall cause notice of the termination to be deposited in the registry of deeds for the registration district in which the land is

situate and, where the land is privately owned, to be sent to the registered owner of the land. 1990, c. 45, s. 4.

**Prohibition on disposal of designated Crown land**

**18** (1) The Province, upon the designation of an ecological site upon Crown lands, and notwithstanding the provision of any other special or general statute, shall not grant, lease or otherwise dispose of lands that comprise such a site.

**Prohibition on Crown grant of rights on ecological site**

(2) Any grant of the Province of any rights under any other statute, including, but not so as to restrict the generality thereof, the mining rights, fishing and game rights, forestry rights and water rights, shall be forbidden on any ecological site designated and any grant purported to be made shall be null and void. R.S., c. 438, s. 18.

**Restriction on expropriation**

**19** Notwithstanding any general or special Act, including the provisions of the Expropriation Act, no expropriation power can be exercised within the limits of a designated ecological site without the express authorization of the Minister, in addition to any other authorization necessary to carry out such expropriation power. R.S., c. 438, s. 19.

**Statute of Frauds**  
CHAPTER 442  
OF THE  
REVISED STATUTES, 1989

**"land" defined**

**2** In this Act, unless the context otherwise requires, "land" includes mining areas and other mining rights and privileges. R.S., c. 442, s. 2.

**Creation of interest in land**

**3** Every estate, or other interest in land not put in writing and signed by the person creating or making the same, or his agent thereunto lawfully authorized by writing, shall have the force of a lease or estate at will only, except a lease not exceeding the term of three years from the making thereof, whereupon the rent reserved amounts to two thirds at least of the annual value of the land demised. R.S., c. 442, s. 3.

**Assignment or grant or surrender of interest**

**4** No interest in land shall be assigned, granted or surrendered except by deed or note in writing signed by the party assigning, granting or surrendering the same, or by his agent thereunto authorized by writing, or by act and operation of law. R.S., c. 442, s. 4.

**Survivorship Act**  
CHAPTER 454  
OF THE  
REVISED STATUTES, 1989

**Presumed order of death**

**3** (1) Where two or more persons die at the same time or in circumstances rendering it uncertain which of them survived the other or others, such deaths are, subject to subsections (2) and (3), for all purposes affecting the title of property, presumed to have occurred in the order of seniority, and accordingly the younger is deemed to have survived the older.

**Exceptions**

(2) This Act shall be read and construed subject to Sections 93 and 218 of the Insurance Act, and Section 31 of the Wills Act.

**Simultaneous death of testator and beneficiary**

(3) Where

(a) a testator and a person who, if that person had survived the testator, would have been a beneficiary of property under the will, die at the same time or in circumstances rendering it uncertain which of them survived the other; and

(b) the will contains provisions for the disposition of the property in case that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other,

then for the purpose of that disposition the will takes effect as if that person had not survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the testator or died at the same time as the testator or in circumstances rendering it uncertain which survived the other, as the case may be. R.S., c. 454, s. 3.

**Trails Act**  
CHAPTER 476 OF THE  
REVISED STATUTES, 1989

amended 1993, c. 9

**1** This Act may be cited as the *Trails Act*. R.S., c. 476, s. 1.

**Purpose**

**2** The purpose of this Act is to

- (a) establish and operate trails on Crown lands and over watercourses for recreational use and enjoyment;
- (b) establish trails on privately owned lands, with the prior consent of the owners or occupiers;
- (c) reduce the liability of the owner or the occupier of privately owned lands where consent is given to designate a trail;
- (d) establish and operate trails, either by the Department or through agreement with persons, including municipalities, clubs, organizations and other such bodies; and
- (e) provide for effective management of trails and the regulation of trail user activities to ensure quality user experiences. R.S., c. 476, s. 2.

### **Interpretation**

#### **3** In this Act,

- (a) "Crown land" means Crown land under the administration and control of the Department and other lands the administration and control of which is transferred to the Department;
- (b) "Department" means the Department of Lands and Forests;
- (c) "land" includes land covered with water and watercourses;
- (d) "Minister" means the Minister of Lands and Forests;
- (e) "municipality" means a municipality as defined in the *Municipal Affairs Act*;
- (f) "peace officer" includes a member of the Royal Canadian Mounted Police, a police officer appointed by a city, incorporated town or municipality of a county or district and a conservation officer as defined in the *Crown Lands Act*, the *Forests Act* and the *Wildlife Act*;
- (g) "Recreational Waterways Program" means a program established by Section 11;
- (h) "special management zones" means zones established pursuant to Section 9;
- (i) "trail" means a trail designated by the Governor in Council for recreational purposes pursuant to the provisions of this Act;
- (j) "vehicle" means any vehicle propelled or driven otherwise than by muscular power, whether or not the vehicle is registered pursuant to the *Motor Vehicle Act*, and includes an airplane;

(k) "vessel" means a means of conveyance of a kind used on water and includes any accessory to the vessel;

(l) "watercourse" means watercourse as defined in the *Water Act*. R.S., c. 476, s. 3.

### **Referral by Minister**

**4** The Minister may refer matters relating to parks, trails and the recreation policy of the Department to the Natural Resources Advisory Council established pursuant to the *Natural Resources Advisory Council Act* and the Council shall advise the Minister on such matters. R.S., c. 476, s. 4; 1993, c. 9, s. 10.

### **Designation of trail**

**5 (1)** The Governor in Council, upon the recommendation of the Minister, may designate a trail over Crown land or, with the written consent of the landowner or occupier, over privately owned land.

### **Duties of Minister upon designation**

**(2)** When the Governor in Council designates a trail pursuant to subsection (1), the Minister shall

(a) publish, in the Royal Gazette and in a newspaper circulating in the county or counties where the trail is located, a notice containing a plan and general description of the land or watercourse affected sufficient to identify the land to the public;

(b) deposit a copy of the plan and general description in the office of the registrar of deeds for the registration district where the trail is situate;

(c) give notice to the owner or occupier of any privately owned land, if the owner is known, by serving upon the owner or by mailing by registered post to the owner at his last known address, a notice containing a plan and general description of the trail; and

(d) post signs at the usual points of access to the trail indicating that the land or watercourse is a trail.

### **Evidence of posting**

**(3)** Evidence that a sign has been posted is *prima facie* proof that a sign has been posted pursuant to clause (d) of subsection (2).

### **Plan of trail as evidence**

**(4)** A general description and plan of a trail appearing to be certified by the Minister or Registrar of Crown Lands shall be received as evidence without proof of signature

and the designation of land or a watercourse on a plan as a trail is *prima facie* proof that the land or watercourse so designated is a trail. R.S., c. 476, s. 5.

## **Wharves and Public Landings Act**

CHAPTER 503  
OF THE  
REVISED STATUTES, 1989

### **Right of entry on land to procure building materials**

**6** When any commissioner appointed by the Governor in Council to erect, build or repair any public wharf, pier or landing, finds it necessary to procure materials for such purpose, and such materials can be obtained on lands owned by any person, but for any cause no agreement can be made with the person for the purchase of the materials, the commissioner may enter upon such lands with workers, carts, horses and teams, and thereupon, for the purposes of such work, dig up and carry away soil, stones and gravel, and cut down and carry away bushes, poles and brushwood. R.S., c. 503, s. 6.

### **Compensation**

**7** The damage done thereby shall be appraised by three disinterested freeholders, nominated by the nearest justice of the peace not interested in the premises, and the sum appraised shall be paid by the commissioner to the owner of the lands if demanded within three months, or otherwise into the treasury of the municipality in which the lands lie, for the use of the person entitled thereto. R.S., c. 503, s. 7.

### **Restriction on right of entry**

**8** Nothing in this Act contained shall be construed to permit any such commissioner to enter on any garden or yard attached to a homestead, or on any land under crop, or meadow or other cultivated land, save for the purpose of passage in case of necessity, or to permit him to cut down or take away any fruit tree or ornamental tree. R.S., c. 503, s. 8.

## **Wills Act**

CHAPTER 505  
OF THE  
REVISED STATUTES, 1989

### **Interpretation**

**2** In this Act,

- (a) "issue" includes all lawful lineal descendants of the ancestor;
- (b) "person" includes a married woman;
- (c) "personal property" includes leasehold estates and other chattels real, and also

moneys, shares of government and other stocks or funds, securities for money not being real property, debts, rights of action, rights, credits, goods and all other property whatsoever, that by law devolves upon the executor or administrator, and any share or interest therein;

(d) "real property" includes messuages, lands, rents and hereditaments, whether of freehold or any other tenure whatsoever, and wheresoever situated, and whether corporeal, incorporeal or personal, and any undivided share thereof, and any estate, right or interest, other than a chattel interest, therein;

(e) "testator" includes a married woman;

(f) "will" includes a codicil and an appointment by will or by writing in the nature of a will in exercise of a power, and also a disposition by will and testament or devise of the custody and tuition of any child, and any other testamentary disposition. R.S., c. 505, s. 2.

### **Right to dispose of property by will**

**3** (1) Any person may devise, bequeath or dispose of by will, executed as in this Act provided, all real property and all personal property to which the person is entitled, either at law or in equity, at the time of the persons death and which if not so devised, bequeathed or disposed of would devolve upon the persons heirs-at-law or representatives.

### **No heir or next of kin**

(2) No will, devise, bequest or disposition heretofore or hereafter made shall be held to be invalid solely by reason of the testator not leaving any heir-at-law or any next of kin. R.S., c. 505, s. 3.

### **Formalities of execution**

**6** No will is valid unless it is in writing and executed in manner hereinafter mentioned:

(a) it shall be signed at the end or foot thereof by the testator or by some other person in the testators presence and by the testators direction;

(b) such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and

(c) such witnesses shall attest and shall subscribe the will in the presence of the testator, but no form of attestation is necessary. R.S., c. 505, s. 6.

### **Signature to will**

**7** Every will is, so far only as regards the position of the signature of the testator or of the person signing for the testator, deemed to be valid if the signature is so placed at, after, following, under, beside or opposite to the end of the will that it is apparent on the face of the will that the testator intended to give effect by such signature to the writing signed in the will, and no such will is affected by the circumstance that

(a) the signature does not follow, or is not immediately after, the foot or end of the will;

(b) a blank space intervenes between the concluding word of the will and the signature;

(c) the signature is placed among the words of the testimonium clause or of the clause of attestation, follows, is after or is under the clause of attestation, either with or without a blank space intervening, or follows, is after, is under or is beside the names or one of the names of the subscribing witness;

(d) the signature is on a side or page or other portion of the paper or papers containing the will whereon no clause or paragraph or disposing part of the will is written above the signature; or

(e) there appears to be sufficient space on or at the bottom of the preceding side or page

or other portion of the same paper on which the will is written to contain the signature, and the enumeration of the above circumstances does not restrict the generality of the above enactment, but no signature is operative to give effect to any disposition or direction which is underneath or which follows it nor does it give effect to any disposition or direction inserted after the signature was made. R.S., c. 505, s. 7.

**Bequest or devise to attesting witness**

**12** Every devise, bequest or appointment, other than a charge or direction for the payment of debts, to an attesting witness of the will, or to the wife or husband of such witness, is void, and such witness shall be admitted to prove the execution of the will or the validity or invalidity thereof except that, where there are two competent witnesses to the will beside such person, such devise, bequest, or appointment is not void. R.S., c. 505, s. 12.

**Marriage**

**17** Every will is revoked by the marriage of the testator except where

- (a) it is declared in the will that the same is made in contemplation of such marriage;
- (b) the wife or husband of the testator elects to take under the will by an instrument in writing signed by such wife or husband and filed, within one year after the testator's death, in the court of probate in which probate of such will is taken or sought to be taken;
- or
- (c) the will is made in exercise of a power of appointment, when the real or personal property thereby appointed would not in default of such appointment pass to the heir, executor or administrator or the person entitled as next of kin. R.S., c. 505, s. 17.

**Alteration of will after execution**

**20** No canceling by drawing lines across a will or any part thereof, and no obliteration, interlineation or other alteration made in any will after the execution thereof, is valid or has any effect except so far as the words or the effect of the will before such canceling or alteration are not apparent, unless such canceling or alteration is executed in the manner by this Act required for the execution of the will, but the will, with such cancellation or alteration as part thereof, is deemed to be duly executed if the signature of the testator, made by the testator or some other person in the testator's presence and by the testator's direction, and the subscription of the witnesses, is made in the margin or on some other part of the will opposite or near to such cancellation or alteration, or at the foot or end of or opposite to a memorandum referring to such cancellation or alteration and written at the end or some other part of the will. R.S., c. 505, s. 20.