

Land Registration Act

CHAPTER 6 OF THE ACTS OF 2001

as amended by

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



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Published by Authority of the Speaker of the House of Assembly
Halifax

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CHAPTER 6 OF THE ACTS OF 2001
 amended 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

**An Act to Provide for the
 Registration of Title to Land
 and to Amend Certain Statutes
 Respecting Real Property**

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(The table of contents is not part of the statute)

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Short title

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

Purpose of Act

- 2 The purpose 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 this Act. 2001, 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 37 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.

(3) Where in an enactment it is provided that an order, judgment, charge or lien may be registered, recorded, deposited or filed in any registry so as to bind or charge any interest in any lands in the county in which it is so registered, recorded, deposited or filed, owned by the named defendant or person against whom the order, judgment, charge or lien is made, whether acquired before or after the [order, judgment, charge or lien is] registered, recorded, deposited or filed, or has the same effect as a judgment pursuant to the *Registry Act*, the order, judgment, charge or lien shall be recorded in the judgment roll provided by this Act and shall not be registered pursuant to the *Registry Act*.

(4) Where an enactment provides that any document creating, removing, transferring or affecting an interest in one or more specific parcels may or shall be registered, recorded, deposited or filed in the registry of deeds and where the parcel that is the subject of the document is registered pursuant to this Act, the document may or shall be registered or recorded, as the case may be, in the parcel register of each of the parcels affected.

(5) Where in an enactment it is provided that any notice or other document may be served upon the registered owner of a parcel, or the person appearing from a search of the records at the registry of deeds to be the owner, and where the parcel is registered pursuant to this Act, the registered owner of the parcel is the person to be served. 2001, c. 6, s. 3; 2002, c. 19, s. 1; 2004, c. 38, s. 1; 2008, c. 19, s. 2.

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.*

Application of Act

6 (1) *repealed 2004, c. 38, s. 2.*

(2) Her Majesty in right of the Province is bound by this Act.

(3) This Act applies to any interest vested in Her Majesty in any other right that is within the competence of the Legislature and to any interest that has been subjected to this Act by Her Majesty.

(4) Except as provided in Section 73, a lien in favour of Her Majesty in right of the Province pursuant to an enactment may not be enforced against any parcel registered pursuant to this Act unless the lien is recorded pursuant to this Act.

(5) This Act applies to every interest in Nova Scotia lands as defined in the *Canada-Nova Scotia Offshore Petroleum Resources Accord (Nova Scotia) Implementation Act*.

(6) For the purpose of this Act, Nova Scotia lands as defined in the *Canada-Nova Scotia Offshore Petroleum Resources Accord (Nova Scotia) Implementation Act* are deemed to be in the registration district that includes the County of Halifax. 2001, c. 6, s. 6; 2002, c. 19, s. 2; 2004, c. 38, s. 2.

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;

(b) supervise and direct the persons employed in land registration offices in the performance of their duties and exercise of their powers pursuant to this Act;

(c) inspect the records of land registration offices; and

(d) perform such other duties as are prescribed by this Act or directed by the Minister.

(4) The Registrar General may perform the duties and exercise the powers of a registrar. 2001, c. 6, s. 8; 2002, c. 19, s. 3.

Deputy Registrar General

8A (1) The Minister shall, in accordance with the *Civil Service Act*, appoint a person to be a deputy registrar general.

(2) The Minister may, in accordance with the *Civil Service Act*, appoint additional deputy registrars general as may be required to assist the Registrar General in the performance of his or her duties.

(3) A deputy registrar general appointed under subsection (1) or (2) may perform any of the duties and exercise any of powers of the Registrar General as directed by the Registrar General and shall perform such other duties as directed by the Minister. 2011, c. 20, s. 2.

Registrar and deputy registrars

9 (1) A registrar and such deputy registrars and additional employees as may from time to time be required shall be appointed in accordance with the *Civil Service Act*.

(2) A registrar shall perform the duties and exercise the powers of a registrar imposed or conferred by this Act or the regulations.

(3) Any duty performed or power exercised by a deputy registrar, by a person authorized by the Minister or by one of a prescribed class of persons is deemed to have been performed or exercised by a registrar. 2001, c. 6, s. 9; 2004, c. 38, s. 3.

Registrars

10 (1) In this Section, “register” includes a roll established pursuant to this Act.

(2) Unless restricted by regulations made by the Minister, a person who has paid the appropriate prescribed fee

(a) may examine;

(b) shall be furnished with a copy of;

(c) shall be furnished with a copy certified by a registrar of,

any register and any registered or recorded instruments in the register.

(3) and (4) *repealed 2008, c. 19, s. 4.*

(5) A copy of a register or document incorporated in a register appearing to be certified by a registrar is admissible in evidence in any proceeding to the same extent as the original would have been admissible, and is conclusive proof of the facts certified without proof of the signature or official capacity of the person who appears to have signed the certification. 2001, c. 6, s. 10; 2008, c. 19, s. 4.

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.

Maintenance of registers

14 (1) In this Section, “register” includes a roll established pursuant to this Act.

(2) A document that is registered or recorded in a register shall be assigned an identifier by the registrar.

(3) Registers shall be maintained so that a document registered or recorded in a register may be viewed or copied by reference to its identifier. 2001, c. 6, s. 14; 2008, c. 19, s. 7.

15 *repealed 2008, c. 19, s. 8.*

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 of the parcel shall be referred to in the manner prescribed in the regulations. 2008, c. 19, s. 10.

19A *repealed 2008, c. 19, s. 11.*

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.

Change of name

22 (1) Where a person who is the owner of an interest in a parcel changes that person's name, the registrar may register the change of name on the production of

- (a) an affidavit verifying the change of name;
- (b) any documentation that is required by the registrar; and
- (c) the parcel identification numbers of all registers in which the change of name should be noted.

(2) A registrar shall not revise a registration to change the ownership of a parcel if the instrument effecting the change is not signed by the registered owner of the parcel in the name in which the parcel is registered unless the instrument contains an affidavit of change of name that complies with this Section.

(3) The registrar shall include any change of name in the judgment roll. 2001, c. 6, s. 22; 2002, c. 19, s. 8.

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.

Registration of wills

24 (1) In this Section, “will” means a will with respect to which probate or administration has been granted.

(2) The registrar of probate shall forward a copy of a will with respect to which probate or administration has been granted, together with any translation obtained by the registrar of probate, to the registrar.

(3) The registrar of probate shall include with each will forwarded to the registrar a list of the parcel identification numbers provided by the executor or administrator with respect to which the deceased owned a registered or recorded interest.

(4) The registrar shall record the will and any translation provided by the registrar of probate in each of the parcel registers identified on the list provided.

(5) A deed from an executor shall not be accepted by a registrar as a direction to revise a registration unless the will is recorded in the register for that parcel and the deed is accompanied by a certificate of a qualified lawyer setting out the legal effect of the document.

(6) A will shall not be accepted by a registrar as a direction to revise a registration unless the registrar is provided with the certificate of a qualified lawyer verifying the interest devised, the parcel devised and the person to whom it was devised.

(7) A registrar shall not accept a will for registration or recording unless probate or administration has been granted with respect to the will. 2001, c. 6, s. 24; 2008, c. 19, s. 36.

Grants of administration

25 (1) Where a registrar of probate grants administration in the case of an intestacy, that registrar shall forward a copy of the grant of administration to the registrar.

(2) The registrar of probate shall include with each grant of administration forwarded to the registrar a list of parcel identification numbers provided by the administrator with respect to which the deceased owned a registered or recorded interest.

(3) The registrar shall record the grant of administration in each of the parcel registers identified on the list provided.

(4) *repealed 2002, c. 19, s. 9.*

2001, c. 6, s. 25; 2002, c. 19, s. 9.

Prerequisites for acceptance of deed

26 A deed from an administrator shall not be accepted by a registrar as a direction to revise a registration unless the will or petition for administration is recorded in the register for that parcel and the order of the court, if any, authorizing the sale is recorded in that register and the deed is accompanied by a certificate of a qualified lawyer setting out the legal effect of the document. 2001, c. 6, s. 26; 2008, c. 19, ss. 13, 36.

Proof of death

27 (1) A registrar shall accept proof of death of a joint tenant as a direction to revise a registration to delete that joint tenant as an owner.

(2) A registrar shall record the proof of death of the joint tenant in the parcel register identified by the applicant.

(3) *repealed 2002, c. 19, s. 10.*

2001, c. 6, s. 27; 2002, c. 19, s. 10.

Trusts

28 (1) Where an instrument discloses that a party to an instrument is a trust, or holds an interest in trust, the party's interest shall be registered or recorded in the name of the trustee or trustees only, followed by a notation that the interest is held in trust.

(2) *repealed 2008, c. 19, s. 14.*

(3) Any conveyance or encumbrance of the interest by the trustee is, for the purpose of this Act, deemed to be in furtherance of the purposes of the trust.

(4) No action of a beneficiary of a trust in which the trustee does not join affects the title held by the trustee. 2001, c. 6, s. 28; 2008, c. 19, s. 14.

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.

Bankruptcies

30 A registrar shall accept a certified copy of a receiving order or assignment in bankruptcy pursuant to the *Bankruptcy and Insolvency Act* (Canada) as a direction to revise a registration as to the ownership of any registered interest of the bankrupt specified by the trustee and shall register the order or assignment. 2001, c. 6, s. 30.

Tax sales

31 (1) Where a registered parcel is sold for taxes pursuant to the *Municipal Government Act* or another enactment of the Province, a certificate that the parcel has been sold for taxes shall be recorded in the parcel register in the manner provided by the enactment pursuant to which the parcel was sold.

(2) Where the parcel is redeemed before a tax deed is delivered to the purchaser at the tax sale, a certificate of discharge or redemption shall be recorded in the parcel register and the registrar shall cancel the recording of the certificate of sale.

(3) On the application of the purchaser of a registered parcel at a tax sale and presentation of the tax deed, the registrar shall revise the registration of the parcel to show the purchaser as the owner of the parcel.

(4) *repealed 2004, c. 38, s. 9.*

2001, c. 6, s. 31; 2004, c. 38, s. 9.

Right to file certain documents

32 (1) A person who claims to be entitled to be registered as the owner of any registered parcel or the owner of an estate or interest therein

- (a) pursuant to a judgment or order of a court;
- (b) pursuant to an enactment of Canada or the Province or an order in council;

- (c) through the purchase of the parcel by a person at a judicial sale from someone other than the registered owner;
- (d) pursuant to an order, judgment or certificate issued pursuant to the *Land Titles Clarification Act* or the *Quieting Titles Act*;
- (e) pursuant to any other instrument or proceeding,

where no other provision of this Act provides for the registration of that person as owner of the parcel, interest or estate therein, may file the judgment or appropriate documents evidencing the right to be registered as owner thereof with the registrar who shall register the parcel or record the interest in the case of interests that are not registrable.

(2) A registrar may forward the documents to the Registrar General for an interpretation of whether the documents have the effect contended by the applicant, and that any appeal period has expired.

(3) A registrar or the Registrar General may require the applicant to provide a certificate from a qualified lawyer setting out the legal effect of the documents. 2001, c. 6, s. 32; 2002, c. 19, s. 11; 2008, c. 19, s. 36.

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.

(2) Subject to Section 92A, and unless otherwise ordered by the court, the following are parties to any proceeding pursuant to this Section:

- (a) all registered owners of the parcel in question
 - (i) at the time of the registration objected to, and
 - (ii) at the time that the proceeding is commenced;
- and
- (b) the person aggrieved.

(3) A person commencing a proceeding pursuant to this Section shall provide written notice, at the time the proceeding is commenced, to all interest holders appearing in the parcel register.

(4) The court shall determine the rights of the parties according to law, subject to the following principles:

- (a) the person aggrieved may have the registration corrected;
- (b) any correction of the registration shall preserve the right to compensation of a person who obtained a registered interest from a registered owner who registered the interest objected to; and
- (c) the court may, where it is just and equitable to do so, confirm the registration.

(5) Where the court corrects the registration objected to, but the correction of the registration cannot fully nullify the effects of the registration, or where the court determines that it is just and equitable to confirm the registration, the court shall determine which of the parties suffered loss by reason of the registration and order

- (a) that any party who suffered loss be compensated in accordance with subsection (7) and Sections 85 and 86; or
- (b) payment of damages by one party to another.

(6) In determining whether it is just and equitable to confirm the registration objected to, the court shall consider

- (a) the nature of the ownership and the use of the parcel by the parties;
- (b) the circumstances of the registration;

- (c) the special characteristics of the parcel and their significance to the parties;
- (d) the willingness of any of the parties to receive compensation in lieu of an interest in the parcel;
- (e) the ease with which the amount of compensation for a loss may be determined; and
- (f) any other circumstances that, in the opinion of the court, are relevant to its determination.

(7) A registered owner is not entitled to compensation or to retention of any of the benefits of a registration made in error unless that owner

- (a) believed that the registration was authorized by law;
- (b) had no knowledge of the facts that made the registration unauthorized; and
- (c) gave consideration for the registered interest or detrimentally relied upon the registration. 2008, c. 19, s. 15.

Priority rules

36 (1) Where interests registered in one register appear to conflict with the interests registered in a different register, the priority to be given to one register over the other shall be determined in accordance with the first of the following rules to establish a priority:

- (a) *Rule 1:* where there is actual possession of a parcel under an interest conferring a right to possession, that interest and the interests derived from it shall be enforced with priority;
- (b) *Rule 2:* the interest that was not subject to rectification under this Act when the conflict arose, and the interests derived from it, shall be enforced with priority.

(2) Any owner who sustains loss because another interest and the interests derived from it are enforced with priority under this Section shall be compensated as provided in this Act.

(3) A person does not sustain loss pursuant to this Section if an interest is enforced in priority to the person's interest pursuant to Rule 1 and the possession is apparent to a reasonable person from an inspection of the parcel. 2001, c. 6, s. 36; 2002, c. 19, s. 14.

Application for registration

37 (1) Any person claiming to own a parcel that is not registered pursuant to this Act may apply to the registrar of the district in which the parcel is situated to have the title to the parcel registered pursuant to this Act.

(2) Subject to Sections 46 and 46A, any person who has, for valuable consideration, acquired the ownership of a parcel that is not registered pursuant to this Act shall apply to the registrar of the district in which the parcel is situated to have the title to the parcel registered pursuant to this Act.

(3) Subject to Section 46A, a mortgage of a parcel entered into after the coming into force of this subsection, and after the county in which the parcel is situated is designated by the Governor in Council pursuant to subsection 128(2), does not create a security interest in that parcel until title to the parcel is registered and the mortgage is recorded pursuant to this Act.

(4) An application shall be in the prescribed form and shall be accompanied by

- (a) the prescribed fee;
- (b) an opinion of title certified by a qualified lawyer;
- (ba) a statement of whether and, if so, for what purpose a title insurance policy was issued in respect of the parcel;
- (c) *repealed 2006, c. 15, s. 9.*
- (d) *repealed 2004, c. 38, s. 11.*
- (e) evidence of compliance with Part V of the *Municipal Government Act*;
- (f) evidence that Part IX of the *Municipal Government Act* has been complied with or certification by the qualified lawyer that Part IX does not apply;
- (g) the parcel identification number assigned to the parcel in the manner prescribed in regulations made by the Minister; and
- (h) such additional information as may be prescribed.

(5) Where the application is complete, the registrar shall accept the application for registration and shall index the registered interests in the parcel, together with and subject to any encumbrances, liens, estates, qualifications or other interests against or in respect of the parcel as are specified in the opinion of the qualified lawyer.

(6) Where the application is not complete, the registrar shall reject the application and return it to the applicant.

(7) An application shall include sufficient information concerning the size and location of the parcel as will permit the registrar to assign the parcel identification number for the parcel and create a geographical representation of the parcel in Provincial mapping, showing it in relation to neighbouring parcels with reasonable accuracy.

(8) *repealed 2008, c. 19, s. 16.*

(9) The qualified lawyer's opinion of title required in clause (4)(b) shall be prepared in accordance with the relevant Nova Scotia Barristers' Society practice standards in effect at the time of the opinion and

(a) shall set out

(i) the interests being registered in the parcel and, subject to Section 40, all encumbrances, liens, estates, qualifications and other interests affecting the parcel, and

(ii) the direct or indirect right of access to the parcel, if any, from a public street, highway or navigable waterway to the parcel,

as appear on the records at the land registration office in the county where the parcel is situated; and

(b) shall be based upon a title search, as evidenced in an abstract of title, that shows a chain of title to the standard required to demonstrate a marketable title pursuant to the *Marketable Titles Act* or to the standard required pursuant to the *Real Property Limitations Act* or any other enactment or the common law, or to such lesser standard as the Registrar General may approve.

(10) *repealed 2004, c. 38, s. 11.*

(11) A qualified lawyer is liable to the Registrar General with respect to any negligent error or omission in an opinion furnished pursuant to this Section if the Registrar General has, within ten years after the opinion was furnished to the Registrar General, been required to pay compensation pursuant to this Act as a result of the negligent error or omission.

(11A) Liability under subsection (11) may be enforced by the Registrar General joining the qualified lawyer in an action brought against the Registrar General for compensation.

(12) The Registrar General may at any time require the lawyer to produce any information that the lawyer may have relevant to the title with respect to which the opinion was given.

(13) Notwithstanding the *Freedom of Information and Protection of Privacy Act*, an abstract of title prepared pursuant to this Section may only be disclosed by the Registrar General to an insurer of the qualified lawyer who prepared it for purposes related to claims, to the Lawyers' Insurance Association of Nova Scotia for purposes related to claims or to the Nova Scotia Barristers' Society for purposes related to professional responsibility or competency. 2001, c. 6, s. 37; 2002, c. 19, s. 15; 2004, c. 38, ss. 11, 26; 2006, c. 15, s. 9; 2008, c. 19, ss. 16, 36; 2014, c. 35, s. 24.

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.

Reference to non-residents

38 Where any person applies to have an interest registered pursuant to this Act or to have a registration revised to show a new or additional owner, that person shall include in the application a statement as to whether any of the owners of the interest is a non-resident. 2001, c. 6, s. 38.

39 *repealed 2004, c. 38, s. 12.*

Interests not to be included in parcel register

40 For the purpose of this Act, the following interests are not interests that may be included in a parcel register:

- (a) an unreleased security interest in a residential mortgage that is more than forty years old and that has not been amended or supplemented by an instrument registered during the preceding forty years;
- (b) an unreleased dower interest;

(c) an interest that has escheated to Her Majesty from any person other than the immediate predecessor in title of the applicant pursuant to Section 37;

(d) a conditional sales agreement or lease with respect to a fixture dated more than ten years prior to the date of the application pursuant to Section 37. 2008, c. 19, s. 18.

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;

(c) any mortgage of lands; or

(d) any certificate of title pursuant to the *Land Titles Clarification Act* or the *Quieting Titles Act*.

(2) The Registrar of Condominiums shall not accept for registration pursuant to the *Condominium Act* any condominium corporation where the property, as defined in the *Condominium Act*, is not registered pursuant to this Act.

(3) This Section does not apply to a transfer of title

(a) between persons married to one another;

(aa) with respect to parcels acquired by Her Majesty in right of the Province or a municipality for the purpose of road widening, alignment or movement;

(ab) in a deed that conveys an interest of a predecessor in title being used to feed the estoppel or clarify title;

(ac) between persons who are parties to a registered domestic partnership agreement;

(ad) in a tax deed;

(ae) that involves a piece of land that is not registered and that is being created as a parcel under the subdivision provisions of Part IX of the *Municipal Government Act* solely for the purpose of consolidation with an abutting parcel that is not registered;

(b) between persons formerly married to one another, if the transfer is for the purpose of division of matrimonial assets; or

(c) from the Nova Scotia Farm Loan Board to a borrower under the *Agriculture and Rural Credit Act*. 2001, c. 6, s. 46; 2002, c. 19, s. 20; 2004, c. 38, s. 14; 2006, c. 15, s. 10.

Agreement with Minister respecting registration under Registry Act

46A (1) Notwithstanding Sections 37 and 46, the Registrar General may recommend that the Minister enter into a written agreement with a person who claims to own a parcel that is not registered to have an instrument respecting that parcel registered under the *Registry Act*, if circumstances exist that require the instrument to be registered under that Act.

(2) The agreement referred to in subsection (1) shall set out the time period within which title to the parcel shall be registered pursuant to this Act.

(3) A registrar of deeds shall register the instrument referred to in subsection (1) if the registration requirements of the *Registry Act* have been complied with and the instrument is accompanied by a certificate of the Registrar General.

(4) The agreement referred to in subsection (1) is subject to any provisions prescribed by the Minister in the regulations.

(5) Notwithstanding Section 37, a person who has entered into an agreement with the Minister in accordance with this Section may mortgage the parcel that is the subject of the agreement or any interest in it or provide a security interest in it. 2004, c. 38, s. 15.

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.

Duties of registrar

48 (1) A registrar shall register or record documents that comply with this Act, in so far as practicable,

(a) promptly after submission for registration or recording; and

(b) in the order in which they are submitted for registration or recording.

(2) An interest is recorded when the identifier assigned to the document submitted for recording is entered in the appropriate register.

(3) The date and time of the recording of an interest is deemed to be the date and time when the document describing the interest was received and indexed by the registrar. 2001, c. 6, s. 48; 2004, c. 38, s. 17.

Duties of registrar

49 (1) A recorded interest shall be enforced with priority over a prior interest where the subsequent interest was

- (a) obtained for value;
- (b) obtained without fraud on the part of the owner of the subsequent interest;
- (c) obtained at a time when the prior interest was not recorded; and
- (d) recorded at a time when the prior interest was not registered or recorded.

(2) Subsection (1) applies with respect to conflicting interests of successors to the owner of the recorded interest.

(3) In this Section,

- (a) where a subsequent interest will not be enforced with priority for an owner of that interest because the requirements of subsection (1) have not all been satisfied, it shall be enforced with priority for a subsequent owner of that interest when the requirements of subsection (1) are first satisfied; and
- (b) once an interest is entitled to priority of enforcement, it remains so entitled when acquired by a successor. 2001, c. 6, s. 49.

Effect of cancellation

50 (1) Where a recording of a prior interest is cancelled pursuant to an invalid request for cancellation and as a result of the cancellation a subsequent interest becomes enforceable with priority over the improperly cancelled interest, correction of the register does not deprive the subsequent interest of its priority if the owner of the subsequent interest

- (a) believed that the recording of the prior interest was validly cancelled;
- (b) had no knowledge of facts tending to show the cancellation was unauthorized; and
- (c) paid value for the benefits purportedly obtained under, or detrimentally relied upon, the cancellation.

(2) An owner of a prior interest who sustains loss pursuant to this Section shall be compensated as provided by this Act. 2001, c. 6, s. 50.

Effect of security interest on title

51 (1) Security interests do not transfer the title of the land charged by them and do not sever a joint tenancy.

(2) A security interest is an interest in land and has effect as security.

(3) A security interest is recognized under law only to the extent of the actual obligation of the debtor under law.

(4) Where the obligation secured by a security interest has been paid in full, the holder of the security interest shall record a release of the security interest.

(5) No fee or expense may be charged by a secured party for recording a release of a security interest unless the charge was agreed to by the parties before the obligation was paid in full.

(6) A security interest may be discharged in whole or in part, or as to all or any of the parcels charged, by recording a full or partial release of the security interest. 2001, c. 6, s. 51.

Rights of holder of security interest

52 (1) The holder of a recorded mortgage or debenture incorporating a mortgage may enforce all rights and remedies permitted by law as if the parcel had been conveyed by mortgage subject to a proviso for redemption.

(2) A mortgage has priority over subsequent recorded interests to the extent of the obligations secured and the sums actually advanced under the mortgage, not exceeding the amount for which the mortgage is expressed to be a security, even though part of the sums may have been advanced after the recording of a subsequent interest.

(2A) Subsection (2) applies to a mortgage that secures a running, current or revolving account or line of credit even though some or all of the sums advanced under it from time to time have been repaid.

(2B) Subsection (2) does not apply to any advance made after

(a) the holder of a subsequent recorded interest serves written notice of the subsequent interest and its recording particulars, on the holder of the prior mortgage, and records a copy of the notice in the parcel register;

(b) a lien pursuant to the *Mechanics' Lien Act* is recorded;
or

(c) a lien pursuant to the *Maintenance Enforcement Act* is recorded.

(3) Where a mortgage is foreclosed, the order for foreclosure shall be recorded.

(4) An application for an order for foreclosure shall specify whether the parcel with respect to which the order is sought is registered pursuant to this Act.

(5) Where the parcel with respect to which a foreclosure order is sought is registered pursuant to this Act, the application for an order for foreclosure shall include the property identification number of the parcel. 2001, c. 6, s. 52; 2003, c. 7, s. 4; 2008, c. 19, s. 20.

Debentures and floating charges

53 (1) A registered parcel may be mortgaged or charged by the recording of a debenture.

(2) A recorded debenture may be discharged in whole or in part or as to all or any of the parcels mortgaged or charged by the recording of a discharge of debenture.

(3) Where a floating charge contained in a debenture has been crystallized, a notice of crystallization of debenture shall be recorded in prescribed form against any parcel with respect to which the floating part of the debenture has been recorded, and the debenture does not charge the parcel until such time as the notice of crystallization is recorded. 2001, c. 6, s. 53; 2004, c. 38, s. 18.

Restriction on effect of court order

54 An order of a court, including a court of probate, affecting the title to or boundaries of a parcel registered pursuant to this Act has no effect with respect to persons not parties to the action in which the order was granted until it is registered or recorded. 2001, c. 6, s. 54.

Leases

55 (1) A lease of a registered parcel may be evidenced by recording a lease or a notice of lease.

(2) A lease that has been recorded or with respect to which notice of lease has been recorded is not valid against the holder of any other interest in the parcel unless

- (a) the lease or the notice of lease was recorded before the other interest;
- (b) the holder of the interest has consented in writing to the lease; or
- (c) the holder of the interest adopts the lease.

(3) A right of the lessee to purchase a parcel or extend or renew the term of the lease or to expand or contract the premises leased may be set out in the lease or notice of lease and, where they are not so set out, are not binding on persons who did not sign the lease.

(4) A lessee may, with the consent of the lessor, surrender a lease that has been recorded or with respect to which notice of lease has been recorded, by the recording of a surrender of lease.

(5) A lease for a period of three years or less need not be recorded and subsection (2) does not apply to the lease if there is actual possession under the lease that could be discovered through reasonable investigation. 2001, c. 6, s. 55.

Duty to refuse

- 56** (1) A registrar shall refuse to register or record a document if
- (a) the prescribed fees are not paid;
 - (b) the document does not comply with this Act or the regulations;
 - (c) the registrar has reasonable and probable grounds to believe that the registration or recording might result in a registration or recording that is not in accordance with law;
 - (d) the Registrar General has ordered that no further registrations or recordings be made with respect to the parcel or with respect to a party to the document or a person attempting to register or record the document; or
 - (e) any of the requirements of this Act have not been met.

(2) Where the Registrar General determines that an error has been made in a registration or a recording, or that there is risk of an improper or fraudulent registration or recording being made, the Registrar General may order that

- (a) no further registrations or recordings be made with respect to a parcel;
- (b) no further registrations or recordings be made with respect to documents to which a named person is a party; or
- (c) no further registrations or recordings be made with respect to documents presented by, prepared by or certified by a named person,

and, thereupon, no further registration or recording shall be made contrary to the order and no certificate of registered ownership shall be issued with respect to any parcel identified in the order until the order has been rescinded.

(3) An order pursuant to subsection (2) shall be recorded in the register of each parcel identified in the order and shall be removed from the register when rescinded. 2001, c. 6, s. 56.

Cancellation of recording

- 57** (1) The recording of an interest, other than a security interest, shall be cancelled
- (a) when the interest may not be recorded pursuant to this Act;

(b) if the interest is recorded but not registered, when requested by the holder of the interest; and

(c) when the time for which the interest is effective has expired, subject to any recorded renewal, amendment or termination.

(2) Cancellation of the recording of an interest does not terminate the interest.

(3) Cancellation of the recording of an interest does not affect the priority of enforcement rights that accrued before the cancellation.

(4) An interest that is removed from a register and any release or discharge of the interest shall be preserved in an archive register. 2001, c. 6, s. 57; 2002, c. 19, s. 21.

Certificate of *lis pendens*

58 (1) A certificate of *lis pendens* in prescribed form may be recorded with respect to the parcel described in it.

(2) A certificate of *lis pendens* may be removed from the register on the earliest of

(a) cancellation of the recording;

(b) the recording of an order of the court dismissing the action or discharging the *lis pendens*;

(c) the recording of a certificate of a prothonotary of the court that the action was discontinued; and

(d) the expiration of five years from the recording of the certificate of *lis pendens*.

(3) A certificate of *lis pendens* shall be signed by a prothonotary of the court in which the action affecting the parcel was commenced.

(4) A person filing or continuing a certificate of *lis pendens* without reasonable cause is liable to compensate any person who may have sustained damage as a result. 2001, c. 6, s. 58; 2002, c. 19, s. 22.

Personal Property Registry

59 (1) A registration in the Personal Property Registry is not a registration or recording pursuant to this Act.

(2) A security interest in a fixture and a security interest in a crop pursuant to the *Personal Property Security Act* may be recorded in the parcel register of the parcel that they affect.

(3) A security interest in a fixture and a security interest in a crop pursuant to the *Personal Property Security Act* shall be removed from the register on the earliest of the

- (a) cancellation of the recording;
- (b) expiration of the period for which the interest was recorded; and
- (c) recording of a discharge of the security interest. 2001, c. 6, s. 59; 2002, c. 19, s. 23.

Discharge of security interests

60 (1) Where there are reasonable and probable grounds to believe that

- (a) all of the obligations under the security interest have been performed;
- (b) the holder of the security interest has agreed to release all or part of the collateral;
- (c) the security interest does not affect the parcel in the register; or
- (d) no security interest exists,

the debtor named in the security interest, a person who has or had a registered interest in the parcel to which the security interest purportedly relates or the lawyer of the debtor or the person with the registered interest may serve a written demand on the holder of the security interest, by registered mail or as otherwise prescribed by regulation, requiring the holder to discharge the interest so far as it relates to the parcel or to discharge the interest so far as it relates to the collateral agreed to be released or not included in the security interest.

(2) Where the secured party fails to comply with a demand made pursuant to subsection (1) within thirty days after it is served, the person making the demand may require the registrar to cancel or amend the recording in accordance with the demand upon proof of service of the demand.

(2A) *repealed 2004, c. 38, s. 19.*

(3) Notwithstanding subsection (2), a registrar shall not cancel or amend a recording if an order of the court is provided by the secured party permitting the continuance of the recording on such terms as may be specified in the order.

(4) An order pursuant to subsection (3) shall be recorded.

(5) After having been served with a demand pursuant to subsection (1), a secured party may apply to the court and the court may order the continuance of the registration as if the demand had not been made on such terms as the court thinks just or may order the discharge or amendment of the security interest.

(6) No fee or expense may be charged by a secured party for compliance with a demand pursuant to subsection (1) unless the charge was agreed to by the parties before the demand was given. 2001, c. 6, s. 60; 2002, c. 19, s. 24; 2004, c. 38, s. 19; 2008, c. 19, s. 36.

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

(a) the modification or discharge will be beneficial to the persons principally interested in the enforcement of the condition or covenant;

(b) the condition or covenant conflicts with the provisions of a land-use by-law, municipal planning strategy or development agreement issued, made or established pursuant to an enactment and the modification or discharge is in the public interest; or

(c) the condition or covenant offends public policy or is prohibited by law.

(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.

Dominate tenement may be unnecessary

61A (1) A person may, and is deemed always to have been able to, create, by grant or otherwise, in favour of

(a) the Crown or a Crown corporation or agency;

(b) a municipality;

(c) a public utility,

an easement, without a dominant tenement, for any purpose necessary for the operation and maintenance of the grantee's undertaking, including a right to flood.

(2) To the extent necessary to give effect to subsection (1), the rule requiring an easement to have a dominant and servient tenement is abrogated. 2008, c. 19, s. 22.

Assignments

62 (1) The right to have the recording of an interest cancelled or to postpone the enforcement of an interest may be assigned by the holder of the interest.

(2) The original holder may have a recording cancelled or postpone the enforcement of an interest unless an assignment of those rights is recorded.

(3) Any party to a recorded interest may record documents that amend, assign, renew, postpone, partially terminate, terminate or otherwise affect the recorded interest at any time before the recording is cancelled. 2001, c. 6, s. 62.

Cancellation

63 (1) The registered owner of a parcel may send a notice requiring cancellation of a recorded interest or a judgment referenced in the parcel register by serving notice on the holder of that interest or judgment to take proceedings in the court to substantiate the interest or judgment.

(2) The notice pursuant to subsection (1) shall include an affidavit outlining the basis for the objection and the reason why the recorded interest or judgment should be cancelled.

(2A) *repealed 2004, c. 38, s. 21.*

(3) This Section does not apply to

(a) an interest that is registered;

(aa) a security interest;

(b) an interest to which the registered owner has consented;

(c) *repealed 2008, c. 19, s. 23.*

or

(d) a recording pursuant to a statute other than this Act.

(4) The Registrar General shall cancel the recording upon proof

(a) that sixty days has expired after the service of the notice pursuant to subsection (1) on the holder of the interest and, where the interest is a servitude, on the owner of every parcel identified in the recorded document as land to which the benefit of the servitude is annexed;

(b) that no certificate of *lis pendens* has been recorded by any person certifying that proceedings in court have been commenced to substantiate the recorded interest; and

(c) that the person who caused the notice to be served is the registered owner of the parcel against which the recording to be cancelled was recorded.

(5) Notwithstanding clause (4)(a), the court may, on *ex parte* application, shorten the period of sixty days to such period as the court thinks just.

(6) An order shortening the sixty-day notice period shall be served with the notice.

(7) The notice shall be served personally, by registered mail directed to the address to which notices with respect to the recording are to be sent or in accordance with any directions given by the court on *ex parte* application. 2001, c. 6, s. 63; 2002, c. 19, s. 26; 2004, c. 38, s. 21; 2008, c. 19, s. 23.

Liability

64 Where a recording

(a) is void because the interest did not qualify for recording under this Act; or

(b) was not cancelled at the request of the holder after the interest ceased to exist under law and the person affected by it had demanded its cancellation,

the holder of the recorded interest is liable to any person who sustains loss because of the initial recording or its continuance unless it was a registrar's recording or the court finds that the initial recording or its continuance was reasonable under the circumstances. 2001, c. 6, s. 64.

Judgment roll

65 (1) A registrar shall establish a judgment roll for the registration district.

(2) A judgment creditor may record a judgment for the recovery of money in the judgment roll for a registration district.

(3) A judgment shall be certified by the registrar, clerk or prothonotary of the court that issued it.

(4) A judgment recorded in a judgment roll binds and is a charge upon any registered interests of the judgment debtor within the registration district, whether acquired before or after the judgment is recorded, from the date the judgment is recorded until the judgment is removed from the roll.

(5) On the coming into force of this Act, a judgment registered pursuant to the *Registry Act* before that date has the effect of a judgment recorded in the judgment roll pursuant to this Act, with the exception that

(a) it has effect for twenty years from the date of the judgment and may not be renewed[;] and

(b) it is not subject to clause 66(4)(e), subsection 66(5) and Section 67.

(6) The recording of a judgment in the judgment roll has the same effect with respect to a parcel that has not been registered pursuant to this Act as it has with respect to a parcel registered pursuant to this Act, and no judgment shall be recorded pursuant to the *Registry Act* after this Act comes into force. 2001, c. 6, s. 65; 2002, c. 19, s. 27; 2008, c. 19, s. 24.

Effect of judgment

66 (1) A judgment is a charge as effectually and to the same extent as a recorded mortgage upon the interest of the judgment debtor in the amount of the judgment.

(2) A judgment against one joint tenant does not sever the joint tenancy.

(3) A judgment against one owner of an interest does not extend to or bind the interests of the other owners.

(4) A judgment shall be removed from the roll on the earliest of

(a) cancellation of the recording;

(b) the recording of a certificate of the registrar, prothonotary or clerk of the court that issued the judgment that the judgment was set aside;

(c) expiration of the time for which the judgment was recorded;

(d) the recording of a release of the judgment signed by the plaintiff, the lawyer for the plaintiff or the registrar, clerk or prothonotary of the court that issued the judgment; and

(e) the expiration of five years from the date of the judgment or the date of the recording of the latest renewal of the judgment.

(5) The recording of a judgment may be renewed not more than three times by recording a certificate of renewal signed by the judgment creditor or the lawyer, agent or attorney of the judgment creditor at any time before the judgment is removed from the roll.

(6) A judgment that is removed from the roll ceases to bind or be a charge upon any parcel in the registration district.

(7) The validity of any title acquired by a sale under a judgment is not affected by the removal of the judgment from the roll.

(8) A judgment does not affect a person's interest in any parcel if the person's name is materially different from that of the judgment debtor.

(9) For the purpose of this Section, service shall be by registered mail or as prescribed. 2001, c. 6, s. 66; 2002, c. 19, s. 28; 2008, c. 19, ss. 25, 36.

Material difference in names

66A (1) In subsection (2),

(a) "given name" includes an initial used in the place of a given name; and

(b) an initial and a given name are considered to be commonly used variations of each other only where the initial is the same as the first letter of the given name.

(2) In this Act, there is a material difference in names where

(a) the surname of the debtor named in the judgment certificate at the time the judgment is entered is not identical to the name being compared;

(b) there is not any given name in one name that is identical to or a commonly used variation of any given name in the other name;

(c) one name contains the same number of given names as the other name but one of the given names in one name is not identical to or a commonly used variation of any of the given names in the other name; or

(d) one name contains fewer given names than the other name but one of the given names in the name with the fewer given names is not identical to or a commonly used variation of any of the given names in the other name. 2008, c. 19, s. 26.

Contents of recording of judgment

67 (1) The recording of a judgment shall contain the names and addresses of the parties to the action and, in the case of a judgment creditor, shall include an address at which the judgment creditor may be served and, in the case of a judgment debtor, shall include such information as tends to distinguish the judgment debtor from all other persons of the same or similar names.

(2) A certificate of judgment shall contain the amount recovered and the names of the lawyers for the parties, if any.

(3) A certificate of judgment shall be certified under the hand of the registrar, clerk or prothonotary of the Court that issued it, under the seal of the

court, and, when so certified, shall be accepted by the registrar for recording without further proof.

(4) The name of a judgment creditor shall be sufficiently detailed and accurate as to permit the name to be distinguished from all other like names, and shall comply with the prescribed standards.

(5) The registrar shall not accept for recording a judgment that does not comply with the prescribed standards. 2001, c. 6, s. 67; 2008, c. 19, s. 36.

Right to require confirmation

68 (1) Any person may require a judgment creditor who has recorded a judgment in the judgment roll to provide, without charge, confirmation that the person is or is not a judgment debtor referred to in the judgment and that the judgment is or is not satisfied.

(2) A request pursuant to subsection (1) shall include sufficient information concerning the person making the request to permit the judgment creditor to accurately determine whether the person making the request is or is not the judgment debtor and, for that purpose, the judgment creditor may, within seven days after receipt of the request, require further particulars concerning the person making the request.

(3) Where the judgment creditor does not provide the information required by subsection (1) within ten days after the request was received, or within ten days after the additional information requested was received, upon recording an affidavit containing proof that the request was sent to the judgment creditor at the address shown on the judgment roll, that there was no request for further information or that the request was complied with and that no further information was received, the judgment has no effect with respect to any parcel owned by the person making the request.

(4) The registrar shall cancel the recording of a judgment upon receipt of a certificate from the registrar, prothonotary or clerk confirming that sufficient funds have been paid into court to satisfy the judgment and that the judgment creditor has been notified of the payment into court. 2001, c. 6, s. 68; 2002, c. 19, s. 29; 2008, c. 19, s. 27.

Recording of certain documents

69 (1) The assignment of a recorded judgment may be recorded.

(2) The original judgment creditor may release or postpone the judgment unless an assignment of the judgment is recorded.

(3) A judgment may be released in whole or in part, or as to some or all of the land affected by it, by the recording of a full or partial release. 2001, c. 6, s. 69.

Builders' liens

70 Filing or recording a ~~mechanics~~^{builders'} [builders'] lien or a certificate of *lis pendens* pursuant to the *Registry Act* has no effect with respect to a parcel registered pursuant to this Act. 2001, c. 6, s. 70; 2002, c. 19, s. 30.

Effect of order

71 (1) An interest levied upon pursuant to an attachment order is bound by the order from the time a certified copy of the order and of the legal description of the interest levied upon is recorded.

(2) The interest continues to be bound by the order until discharged by order of the court or until thirty days after final judgment has been signed in the action, and the judgment, if recorded before the expiration of the thirty days, binds the interest from the date the attachment order was recorded. 2001, c. 6, s. 71; 2004, c. 38, s. 26.

Powers of attorney

72 (1) Every registrar shall establish an attorney roll for the registration district.

(2) Any person may record a power of attorney in the attorney roll for a registration district.

(3) A power of attorney recorded in an attorney roll is valid with respect to any dealing with any recorded or registered interest of the person granting the power of attorney within the registration district, whether acquired before or after the power of attorney is recorded.

(4) A registrar shall not accept for registration or recording any document signed by an attorney for a person unless the power of attorney is recorded in the attorney roll or the register of the parcel to which the document relates, or the power of attorney is included with the document.

- (5)** A power of attorney may
- (a) be recorded in the attorney roll;
 - (b) be recorded in a parcel register; or
 - (c) be included in the document to which it relates.

(6) A power of attorney that is included in the document to which it relates does not authorize the registration or recording of any other document pursuant to subsection (4).

(7) Where a power of attorney includes conditions that must be met before it has effect, or names alternative attorneys, a registrar and any other person may assume for all purposes that the conditions have been met and that the person acting under the power of attorney is authorized to so act. 2001, c. 6, s. 72.

Priority of certain interests

73 (1) Notwithstanding anything contained in this Act, the following interests, whether or not recorded or registered, and no other interests, shall be enforced with priority over all other interests according to law:

(a) an interest of Her Majesty in right of the Province that was reserved in or excepted from the original grant of the fee simple absolute from Her Majesty, or that has been vested in Her Majesty pursuant to an enactment;

(b) a lien in favour of a municipality pursuant to an enactment;

(c) a leasehold for a term of three years or less if there is actual possession under the lease that could be discovered through reasonable investigation;

(d) a utility interest;

(e) an easement or right of way that is being used and enjoyed;

(f) *repealed 2002, c. 19, s. 31.*

(g) any right granted by or pursuant to an enactment of Canada or the Province

(i) to enter, cross or do things on land for the purpose expressed in the enactment,

(ii) to recover municipal taxes, duties, charges, rates or assessments by proceedings in respect of land,

(iii) to control, regulate or restrict the use of land, or

(iv) to control, regulate or restrict the subdivision of land;

(h) a lien for assessments pursuant to the *Workers' Compensation Act*;

(i) an interest created by or pursuant to a statute that expressly refers to this Act and expressly provides that the interest is enforceable with priority other than as provided in this Act.

(2) Notwithstanding clause (1)(g), a designation pursuant to the *Beaches Act* is not an overriding interest and has no effect with respect to a parcel registered pursuant to this Act until it has been recorded in that parcel's register. 2001, c. 6, s. 73; 2002, c. 19, s. 31.

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.

Service of notices

⁷⁷ (1) Every instrument assigning or claiming an interest in or a right relating to or affecting the title to land or to any interest in land presented for registration or recording shall have endorsed on it or annexed to it the mailing address of the transferee or claimant.

(2) Any document affecting the title to land to which the consent of the registered owner is not affixed shall include an address of the transferee or claimant.

(3) A person may notify the registrar in writing of a change of name or address.

(4) All current addresses of a person shown in a parcel register are the addresses for service of all notices and documents given pursuant to this Act.

(5) Any notice to be served pursuant to this Act is sufficiently served if it is served personally, is sent by registered mail directed to the address to

which notices with respect to the registration or recording are to be sent or in accordance with any directions given by the court. 2001, c. 6, s. 77; 2002, c. 19, s. 34.

Effect of lack of seal or consideration

78 Any instrument submitted for registration or recording is validly executed and shall be registered or recorded, notwithstanding that it is not under seal and notwithstanding that it does not specify, or is not given for, good or valuable consideration. 2001, c. 6, s. 78.

Proof of execution

79 (1) A registrar shall accept for registration or recording every instrument that may be registered or recorded pursuant to this Act that includes a certificate of execution to the effect that

(a) at least one party executing the instrument has sworn or affirmed that the party executed the instrument;

(b) the person who signed the instrument as a witness has sworn or affirmed that at least one of the parties to the instrument signed it in the presence of the witness; or

(c) at least one of the parties to the instrument signed it in the presence of a person authorized by this Act to sign the certificate of execution.

(2) Where the instrument is executed within the Province, the certificate of execution may be signed by, and the affidavit sworn to or affirmed before,

(a) a registrar;

(b) a judge of the Supreme Court of Nova Scotia or of the Nova Scotia Court of Appeal;

(c) a notary public;

(d) a barrister of the Supreme Court of Nova Scotia;

(e) a justice of the peace;

(f) a commissioner of the Supreme Court of Nova Scotia;

(g) any person authorized to administer an oath or to take and receive an affidavit, affirmation or declaration within the Province for use within the Province.

(3) Where the instrument is executed outside the Province, the certificate of execution may be signed by, and the affidavit sworn to or affirmed,

(a) if made in another province before

(i) a judge of any court of record,

(ii) a person authorized to take affidavits in the province for use in any court of record in that province,

- (iii) a notary or notary public,
 - (iv) a commissioned officer in any of Her Majesty's Armed Forces on active duty, or
 - (v) any person authorized by the laws of the Province to take affidavits for the Supreme Court of Nova Scotia; or
- (b) if made in any foreign country, before
- (i) any officer of Her Majesty's Canadian or British diplomatic or consular services including an ambassador, high commissioner, permanent delegate, envoy, minister, chargé d'affaires, counsellor, secretary, attaché, consul general, consul, vice-consul, pro-consul, honorary consul or consular agent and any person acting for any of them,
 - (ii) a Canadian Government Trade Commissioner or Assistant Canadian Government Trade Commissioner,
 - (iii) a judge of any court of record,
 - (iv) a notary or notary public,
 - (v) a commissioned officer in any of Her Majesty's Armed Forces on active duty, or
 - (vi) any person authorized by the laws of the Province to take affidavits for the Supreme Court of Nova Scotia.

(4) Where an instrument is executed outside the Province, the official seal or stamp of a notary or notary public who signed the certificate of execution or who took the affidavit is sufficient proof that the person is a notary or notary public.

(5) Where an instrument is executed outside the Province, a certificate of the person who signed the certificate of execution or who took the affidavit to the effect that the person is one of the persons named in subsections (2) or (3) is sufficient proof of the person's authority to do so for purposes of registering or recording the instrument without the need for a seal or stamp.

- (6) This Section does not apply to
- (a) a grant from Her Majesty;
 - (b) an order in council;
 - (c) a regulation filed pursuant to the *Regulations Act*;
 - (d) an instrument under the seal of a corporation;
 - (e) an order of a court or judge of the Province;
 - (f) a certificate of judgment, an execution order or an attachment order;

- (g) a certificate of *lis pendens* issued by a Nova Scotia court;
- (h) an instrument executed by a Minister of the Crown or by a person authorized by the Minister to execute the instrument;
- (i) a claim for lien under the *Mechanics' Lien Act*;
- (ia) an instrument or document that, pursuant to the regulations, does not require a certificate of execution;
- (j) an instrument, including any instrument executed before the coming into force of this Section, that is provided for under another Act, its predecessor or a regulation and that does not under that Act or regulation require a witness to the instrument. 2001, c. 6, s. 79; 2004, c. 38, s. 23.

Ineligibility as witness

80 An individual is not eligible to be a witness to an instrument executed after the coming into force of this Act if that individual is

- (a) a party to the instrument; or
- (b) a spouse who consents to the instrument pursuant to the *Matrimonial Property Act*. 2001, c. 6, s. 80.

Prohibition of registration or recording

81 A registrar shall not register or record an instrument executed after the coming into force of this Act if the individual who signed the certificate of execution for that instrument is

- (a) a party to the instrument; or
- (b) a spouse who consents to the instrument pursuant to the *Matrimonial Property Act*. 2001, c. 6, s. 81.

Effect of failure to comply

82 Failure to comply with an attestation requirement under this or another Act, its predecessor or a regulation does not, for that reason only, affect the validity of any instrument, whether or not it is recorded or registered. 2001, c. 6, s. 82.

Execution by corporation

83 An instrument executed by a corporation, notwithstanding anything to the contrary in the statute, incorporating documents, charter or memorandum and articles of association of the corporation, shall, for the purpose of this Act, be deemed to be sufficiently executed if the instrument is

- (a) sealed with the corporate seal of the corporation and countersigned by at least one officer or director of the corporation; or
- (b) executed by at least one officer or director of the corporation

- (i) whose signature is attested to pursuant to Section 79, and
- (ii) who verifies by affidavit authority to execute the instrument on behalf of the corporation and thereby bind the corporation. 2001, c. 6, s. 83.

Court authorized registration or recording

84 On being satisfied of the due execution of an instrument, the court may authorize its registration or recording, notwithstanding that the proof of the execution is absent or defective. 2001, c. 6, s. 84.

Compensation

85 (1) Subject to subsection (4), subsection 35(7) and Section 86, a person is entitled to compensation if the person sustains a loss

- (a) due to an error or omission in a parcel register;
- (b) because the person has an interest referred to in Section 40 and the parcel in which the interest is held has been registered pursuant to this Act free of that interest; or
- (c) for which the person has obtained an order for compensation pursuant to Section 35.

(2) Compensation is the aggregate of

- (a) the market value of the interest lost or a family home for a family home determined according to the principles set out in the *Expropriation Act*;
- (b) reasonable costs, expenses and losses arising out of or incidental to the person's disturbance, if any;
- (c) damages for injurious affection to remaining lands of the person arising from the loss of the interest;
- (d) any reduction in value of the interest due to its priority having been subordinated; and
- (e) the value of any special economic value of the interest.

(3) Compensation is determined as of the earlier of the date on which the person submits a claim for compensation to the Registrar General and the date on which the person commences an action for compensation.

(4) Notwithstanding the ~~*Limitations of Actions*~~ [*Real Property Limitations*] Act, a person loses the right to compensation if, within six years after the person learns that a loss may have been sustained, or within such additional time as the Registrar General may agree, that person does not either enter into an agreement with the Registrar General providing for compensation or commence an action for compensation. 2001, c. 6, s. 85; 2008, c. 19, s. 28.

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.

(3) Upon entering into an agreement,

- (a) the Registrar General shall certify to the Minister of Finance that the person is entitled to the various amounts determined pursuant to the agreement;
- (b) the person is entitled to compensation and the Minister of Finance shall pay the amounts set out in or determined pursuant to the agreement;
- (c) the person ceases to be entitled to payment under this Act except as provided in the agreement; and
- (d) all causes of action arising from the loss, except those based on fraud, are extinguished. 2001, c. 6, s. 87; 2008, c. 19, s. 30.

Action for compensation

88 (1) A person who claims to be entitled to compensation may commence an action against the Registrar General.

(2) The court may

- (a) declare that the person is entitled to compensation;
- (b) determine the amount of or a method of determining the compensation, interest and costs to which the person is entitled;

(ba) stay the action and direct the person to pursue a remedy available under this Act, including taking a proceeding under this Act, before continuing the action;

(c) dismiss the action, with or without costs.

(3) Where the court, by order made pursuant to subsection (2), declares that a person is entitled to compensation and orders that compensation be paid to that person in the amount set out in the order or in the amount that is arrived at according to the method set out in the order, and the order becomes final by lapse of time or by being upheld by the highest authority to which an appeal is taken or where the highest authority to which an appeal is taken upholds the order to the extent that the order declares that the person is entitled to compensation, but varies the amount of compensation or the method whereby the amount of compensation is determined,

(a) the person is entitled to, and the Minister of Finance shall pay, compensation in the amount set out in the order or calculated in accordance with the method set out in the order, subject to any variation ordered by the highest authority to which any appeal is taken;

(b) the person ceases to be entitled to payment under this Act except as provided in the order with any variation; and

(c) all causes of action arising from the loss, except those based on fraud, are extinguished. 2001, c. 6, s. 88; 2008, c. 19, s. 31.

Liability to Crown for compensation paid

89 (1) Where a loss for which compensation is payable is caused in whole or in part by the wrongful act of any person, that person is liable to Her Majesty in right of the Province for the amount of the compensation or for such portion thereof as the court finds to be just and equitable, having regard to the extent of that person's responsibility for the loss.

(2) Liability under subsection (1) may be enforced by

(a) the Registrar General joining that person in an action brought against the Registrar General for compensation; or

(b) the Minister of Finance in an action brought against the person. 2001, c. 6, s. 89.

Appeal to Registrar General

90 (1) A person who objects to and is aggrieved by the decision of a registrar respecting the administration of this Act may appeal in writing to the Registrar General.

(2) An appeal shall be submitted to the Registrar General within thirty days of the decision appealed from.

(3) The Registrar General shall investigate the decision being appealed and the facts surrounding the decision and may, after consideration of written or oral submissions, confirm the registrar's decision or order the registrar to do any action that the registrar is required or authorized to do under this Act.

(4) The Registrar General's decision must be in writing.

(5) A decision of the Registrar General pursuant to this Section is final. 2008, c. 19, s. 32.

Application for direction

91 (1) The Registrar General may apply to the court for directions with respect to any matter concerning the duties of the Registrar General or of a registrar pursuant to this Act.

(2) On an application pursuant to subsection (1), the court may give any direction and make any order that it thinks just. 2001, c. 6, s. 91.

Court orders

92 (1) Subject to this Act, in any proceeding with respect to a parcel registered pursuant to this Act, the court may order a registrar to

- (a) record an interest;
- (b) cancel a recording;
- (c) revise the priority of recordings;
- (d) revise a registration;
- (e) take any other action that the court thinks just.

(2) Any order pursuant to subsection (1) shall be recorded in the register of any affected parcel. 2001, c. 6, s. 92; 2008, c. 19, s. 33.

Notice to and intervention by Registrar General

92A (1) A person commencing a proceeding affecting a parcel registered pursuant to this Act, or the administration of this Act, shall provide written notice to the Registrar General at the time the proceeding is commenced.

(2) The Registrar General may, at the Registrar General's sole discretion, intervene in or become a party to the proceeding referred to in subsection (1). 2008, c. 19, s. 34.

Regulations by Governor in Council

93 (1) The Governor in Council may make regulations required to achieve the purpose of this Act and, in particular, regulations

- (a) establishing land registration districts, dividing or combining land registration districts and changing the boundaries of land registration districts;
- (aa) prescribing the location of land registration offices;
- (b) prescribing a class of persons who may perform the duties or exercise the powers of a registrar, specifying which powers may be exercised and any conditions under which the powers may be exercised;
- (c) prescribing fees for services in relation to this Act;
- (d) prescribing the circumstances in which a registrar may waive all or part of the prescribed fees;
- (e) defining any term used, but not defined, in this Act;
- (f) required for the effective implementation and continuation of a land titles system.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*, 2001, c. 6, s. 93; 2011, c. 20, s. 3.

Regulations by Minister

- 94 (1) The Minister may make regulations
- (a) prescribing forms required for the administration of this Act;
 - (b) setting out the requirements for verification of documents submitted to obtain the revision of a registration or the cancellation of a recording;
 - (c) respecting registrations and recordings;
 - (ca) respecting forms;
 - (cb) respecting certificates of execution;
 - (cc) respecting agreements made pursuant to this Act;
 - (cd) respecting the circumstances and manner in which errors or omissions in a parcel register may be corrected;
 - (d) prescribing the form and content of registers;
 - (da) prescribing restrictions on the ability to examine or copy the contents of a register;
 - (e) establishing the procedure for applications to revise a registration or cancel a recording;
 - (f) prescribing the manner in which names and other particulars in documents submitted for recording or registration shall appear;

- (g) prescribing information required to be included with an application for initial registration of a parcel pursuant to this Act;
- (h) establishing requirements for certification of registers or any documents contained in a register;
- (i) requiring every document submitted for registration or recording to be accompanied by a page identifying the parcel affected by parcel identification number, the names of the grantees in the form in which they are to be indexed, a precise identification of the nature of the document, including references to registry numerical coding, and such other information as may be prescribed;
- (j) prescribing the manner in which documents may be electronically registered or recorded;
- (k) prescribing the manner in which electronically registered or recorded documents may be verified, including the use of digital signatures of the parties or of the official completing the certificate of execution or any other certification authorized by this Act or any affidavit included in the instrument or authorized by this Act;
- (l) requiring some or all documents in some or all registries to be submitted for registration or recording in electronic or other form;
- (m) respecting any matter necessary to accommodate changes in technology;
- (n) defining any term used, but not defined, in this Act;
- (o) for the more effective administration of this Act.

(2) The exercise by the Minister of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

(3) Subject to the approval of the Governor in Council, the Minister may enter into agreements prescribing the terms and conditions under which the members of a profession may perform prescribed duties of a registrar and the agreements may contain provisions respecting the standards that the members of the profession shall meet, the manner of enforcement of the standards, the liability of the members to the Registrar General and such other matters respecting the implementation and administration of this Act as may be expedient. 2001, c. 6, s. 94; 2004, c. 38, s. 24; 2008, c. 19, s. 35.

Powers of Registrar General

95 (1) The Registrar General may

- (a) prescribe standard forms of instruments that may be incorporated by reference in an instrument;
- (b) prescribe standard terms or clauses that may be incorporated by reference in an instrument;

(c) require mortgagees or other holders of security interests to file standard charge terms.

(2) Any forms, terms, or clauses prescribed or filed pursuant to subsection (1) shall be maintained in a standard charge terms roll accessible at every land registration office.

(3) Where standard charge terms have been filed, no charge executed after thirty days after the filing that includes the standard terms shall be recorded without the consent of the Registrar General.

(4) Where the Registrar General has required the filing of standard charge terms, and the terms have not been filed within ninety days thereafter, the Registrar General may direct that no security interest in favour of the party in default may be accepted for recording.

(5) The exercise of the authority conferred on the Registrar General by this Section is not regulations. 2001, c. 6, s. 95.

Agricultural Marshland Conservation Act amended

96 *amendment*

Agriculture and Marketing Act amended

97 *amendment*

Assessment Act amended

98 *amendment*

Cemeteries Protection Act amended

99 *amendments*

Condominium Act amended

100 *amendments*

Conveyancing Act amended

101 *amendment*

Credit Union Act amended

102 *amendments*

Environment Act amended

103 *amendments*

Escheats Act amended104 *amendments***Evidence Act amended**105 *amendments***Expropriation Act amended**106 *amendments***Fire Prevention Act amended**107 *amendment***Fisheries and Coastal Resources Act amended**108 *amendment***Gypsum Mining Income Tax Act amended**109 *amendment***Labour Standards Code amended**110 *amendment***Land Holdings Disclosure Act amended**111 *amendment***Land Titles Act, 1903-04 repealed**

112 Chapter 47 of the Acts of 1903-04, the *Land Titles Act*, is repealed. 2001, c. 6, s. 112.

Land Titles Act, 1978 repealed

113 Chapter 8 of the Acts of 1978, the *Land Titles Act*, is repealed. 2001, c. 6, s. 113.

Land Titles Clarification Act amended114 *amendment***Limitation of Actions Act amended**115 *amendments***Application of Section 115**

115A The changes to the *Limitation of Actions Act* contained in Section 115 apply to interests that arise before or after the coming into force of this Act except for claims of adverse possession that were determined by a court prior to the coming into force of this Act. 2002, c. 19, s. 35.

Marketable Titles Act amended116 *amendments***Mechanics' Lien Act amended**116A *amendment***Metalliferous Mines and Quarries Regulation Act amended**117 *amendment***Mineral Resources Act amended**118 *amendments***Municipal Government Act amended**119 *amendments***Pension Benefits Act amended**120 *amendment***Public Trustee Act amended**121 *amendments***Quieting Titles Act amended**122 *amendments***Registry Act amended**123 *amendments***Revenue Act amended**124 *amendment***Sale of Land Under Execution Act amended**125 *amendments***Statute of Frauds amended**126 *amendment***Workers' Compensation Act amended**127 *amendment***Proclamation and designation**

128 (1) This Act comes into force on such day as the Governor in Council orders and declares by proclamation.

Proclaimed (except ss. 21(4), 31(4), 39 and 119(3))	- December 17, 2002
In force (except ss. 21(4), 31(4), 39 and 119(3))	- March 24, 2003
Ss. 21(4), 31(4), 39 and 119(3)	- not proclaimed

(2) Notwithstanding subsection (1), Sections 2 to 64 and 70 to 95 only apply within a county designated by the Governor in Council.

Annapolis County	- March 1, 2004
Antigonish County	- December 1, 2003
Cape Breton County	- March 1, 2005
Colchester County	- March 24, 2003
Cumberland County	- December 1, 2003
Digby County	- March 1, 2004
Guysborough County	- March 1, 2005
Halifax County	- December 1, 2004
Hants County	- March 1, 2004
Inverness County	- March 1, 2005
Kings County	- March 1, 2004
Lunenburg County	- March 1, 2005
Pictou County	- December 1, 2003
Queens County	- March 1, 2005
Richmond County	- March 1, 2005
Shelburne County	- March 1, 2005
Victoria County	- March 1, 2005
Yarmouth County	- March 1, 2005

(3) The exercise by the Governor in Council of the authority contained in subsection (2) is regulations within the meaning of the *Regulations Act*.
2001, c. 6, s. 128.