

# Land Titles Clarification Act

CHAPTER 250 OF THE REVISED STATUTES, 1989

*as amended by*

1992, c. 22; 2001, c. 6, s. 114; 2006, c. 15, ss. 11-14;  
2010, c. 55; 2021, c. 7, ss. 2-6



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**An Act Respecting  
 the Clarification of Land Titles**

title amended 2006, c. 15, s. 11.

**Table of Contents**

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

	Section
Short title.....	1
Interpretation of Act.....	2
Land Registration Act .....	2A
<b>PART I</b>	
Land Titles Clarification Areas	
Interpretation of Part.....	2B
Land titles clarification area.....	3
Application for certificate of claim.....	4
Certificate of claim.....	5
Lienholder.....	6
Other interest holder.....	7
Person adversely affected.....	8
Land Titles Initiative	
Interpretation.....	8A
Land Titles Initiative.....	8B
Commissioners.....	8C
Powers of commissioner.....	8D
Award of compensation.....	8E
Referral to commissioner by applicant.....	8F
Referral to commissioner by adverse interest.....	8G
Referral through other process.....	8H
Resolution of claim.....	8I
Regulations.....	9
<b>PART II</b>	
Ungranted Lands	
Purpose.....	10
Interpretation of Part.....	11
Certificate under Crown Lands Act .....	12
Certificate of release .....	13
Exclusions .....	14
Regulations.....	15

**Short title**

**1** This Act may be cited as the *Land Titles Clarification Act*. R.S., c. 250, s. 1.

**Interpretation of Act**

**2** In this Act, Minister” means the Minister of Lands and Forestry. 2006, c. 15, s. 12; 2021, c. 7, s. 2.

**Land Registration Act**

**2A** This Act does not apply to a parcel registered pursuant to the *Land Registration Act*. 2001, c. 6, s. 114.

## PART I

## LAND TITLES CLARIFICATION AREAS

**Interpretation of Part**

**2B** In this Part,

(a) “certificate of claim” means a certificate of claim issued by the Minister under this Part;

(b) “certificate of revocation” means a certificate of revocation filed by the Minister under this Part;

(c) “certificate of title” means a certificate of title granted by the Minister under this Part;

(d) “municipality” means a regional municipality or a municipality of a county or district. 2006, c. 15, s. 13.

**Land titles clarification area**

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

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

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

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

**Application for certificate of claim**

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

- (2) An application for a certificate of claim shall contain
- (a) a description of the land sufficient to identify and distinguish it from all other lands;
  - (b) a concise statement of the facts on which the applicant bases his claim to ownership of the lot of land; and
  - (c) the names of the persons other than the applicant who have occupied the lot of land or who have at any time claimed ownership of the lot or any interest in it.
- (3) An application for a certificate of claim shall be accompanied by
- (a) an abstract of the title to the lot of land showing all the records in the registry of deeds that affect or may affect title to the lot or any interest in it;
  - (b) a statutory declaration attesting to the history of the occupation of the lot of land so far as the same is known; and
  - (c) a statement showing the names of any person who holds any lien, judgment, mortgage or encumbrance or any other charge on the lot of land and the details thereof.
- (4) The Minister may require the applicant to furnish any information that the Minister desires and may require the applicant to verify by affidavit or otherwise any information or material furnished or included in or accompanying the application. R.S., c. 250, s. 4; 2021, c. 7, s. 3.

#### Certificate of claim

- 5 (1) When it appears from the application that the applicant is entitled to the lot of land, the Minister may issue a certificate of claim to the applicant.
- (2) When the Minister cannot determine from the application that the applicant is entitled to the lot of land, he may appoint a barrister of the Supreme Court as a commissioner to examine the applicant's claim.
- (3) A commissioner appointed by the Minister pursuant to subsection (2) shall have all the powers of a commissioner appointed under the *Public Inquiries Act*.
- (4) When a commissioner examines the claim, he shall either recommend issuance of a certificate of claim or report his reasons for not making this recommendation.
- (5) When a commissioner recommends issuance of a certificate of claim, the Minister may issue a certificate of claim without further inquiry.
- (6) No certificate of claim shall be issued in respect of any lot of land unless any lien, judgment, mortgage, encumbrance or charge other than a lien for municipal taxes has been discharged or satisfied or unless the holder thereof consents in writing.

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

(8) When a certificate of claim is issued and filed in the registry of deeds and there are rates and taxes owing in respect of the lot of land described in the certificate, the applicant may apply to the council of the municipality for relief from the rates and taxes owed and the council may give a discharge of all or a portion of such rates or taxes either absolutely or on the condition that a certificate of title is subsequently granted. R.S., c. 250, s. 5; 2021, c. 7, s. 4.

### **Lienholder**

6 (1) Where a lien affecting land for which an application for a certificate of claim has been made is registered in the registry of deeds and has been in effect for a period of two years or longer and no payment on account or written acknowledgement has been made within one year, the applicant for the certificate or some person on his behalf or the Minister or a person requested by him to do so may give written notice to the person having the lien, requesting him to take steps within three months after service of the notice to realize on the lien.

(2) A notice under subsection (1) may be served by

(a) being delivered personally to the lienholder or, if the lienholder is a corporation, to its recognized agent; or

(b) registered post addressed to the lienholder's last known place of address,

and a copy of the notice shall be filed in the registry of deeds.

(3) If the holder of the lien does not within three months after service of the notice upon him take steps for the enforcement of his lien, the lien shall be deemed to be discharged in relation to the land for which the certificate of claim is sought.

(4) Upon the filing in the registry of deeds of an affidavit or statutory declaration that the notice referred to in this Section has been given in accordance with this Section and that the holder of the lien has not within three months after service of the notice on him taken steps to enforce his lien, the lien shall cease to bind the land.

(5) In this Section, "lien" includes any judgment, mortgage, encumbrance or charge on land other than a lien for municipal taxes.

(6) For purposes of this Section, the cost of filing a document in the registry of deeds shall be fifty cents for each page of the document. R.S., c. 250, s. 6.

### **Other interest holder**

7 (1) Any person who claims to have an interest in the lot of land described in a certificate of claim or who is the holder of a lien, judgment, mort-

gage, encumbrance or any other charge may within sixty days of the date of registration of the certificate file a written notice thereof with the Minister.

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

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

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

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

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

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

(b) the Court may

(i) declare the interests of the parties,

(ii) dismiss the proceeding,

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

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

(a) grant a certificate of title;

(b) revoke the certificate of claim; or

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

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

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

(5) When a certificate of title has been filed in the registry of deeds, title to the lot of land described in the certificate shall vest in the applicant named in the certificate in fee simple and such title shall be absolute and indefeasible but subject to any liens, judgments, mortgages, encumbrances or other charges

or reservations, exceptions or other qualifications mentioned in the certificate. R.S., c. 250, s.7; 1992, c. 22, s. 1.

**Person adversely affected**

**8 (1)** A person who claims to have been adversely affected by the effect of subsection 7(5) may apply to the Minister for compensation.

**(2)** The Minister shall make or cause to be made such independent investigation as is required in the opinion of the Minister to determine whether or not the applicant has been adversely affected.

**(3)** Where the independent investigation determines that the applicant has been adversely affected, the Minister may, with the approval of the Governor in Council and subject to subsection (4), pay to the applicant such compensation as the Minister considers fair in the circumstances.

**(4)** The compensation must not exceed the value of the land at the time the certificate of title was filed. 2010, c. 55, s. 1.

LAND TITLES INITIATIVE

**Interpretation**

**8A** In Sections 8B to 8I,

(a) “commissioner” means a person appointed pursuant to subsection 8C(1);

(b) “Fund” means the Land Titles Initiative Trust Fund established by the Attorney General. 2021, c. 7, s. 5.

**Land Titles Initiative**

**8B** The Land Titles Initiative is hereby established for the purpose of

(a) addressing land title interests in the designated land titles clarification areas of

- (i) Cherry Brook,
- (ii) East Preston,
- (iii) Lincolnville,
- (iv) New Road Settlement (North Preston), and
- (v) Sunnyville,

and such other areas as may be prescribed by the regulations;

and

(b) providing an accelerated approach to clearing title for the areas referred to in clause (a). 2021, c. 7, s. 5.

**Commissioners**

**8C (1)** The Minister may appoint persons to act as commissioners for the purpose of Sections 8B to 8I.

(2) The Minister shall determine the remuneration, expenses and terms of appointment of commissioners. 2021, c. 7, s. 5.

#### **Powers of commissioner**

**8D** A commissioner has all the powers, privileges and immunities of a commissioner appointed under the *Public Inquiries Act*. 2021, c. 7, s. 5.

#### **Award of compensation**

**8E** A commissioner may make a decision awarding compensation from the Fund

(a) to persons adversely affected by the issuance of a certificate of title; and

(b) in lieu of title to land, to resolve competing interests in land,

within the designated land titles clarification areas referred to in Section 8B. 2021, c. 7, s. 5.

#### **Referral to commissioner by applicant**

**8F (1)** Where

(a) an applicant has made a claim pursuant to subsection 4(1) and there are other interest holders to all or a portion of the same lot of land making a claim pursuant to Section 7; or

(b) multiple applicants with competing interests have made claims to all or a portion of the same lot of land pursuant to subsection 4(1),

the Minister may refer the matter to a commissioner.

(2) A commissioner shall assist applicants and other interest holders to resolve their dispute through alternative dispute resolution.

(3) Where applicants and other interest holders wish to proceed by way of arbitration, they must agree that the decision of the commissioner will be final and binding. 2021, c. 7, s. 5.

#### **Referral to commissioner by adverse interest**

**8G (1)** Where a person claims to have been adversely affected by the issuance of a certificate of title and has not applied to the Minister under Section 8, the Minister may refer the matter to a commissioner.

(2) Following an investigation, the commissioner may make a decision to award compensation. 2021, c. 7, s. 5.

#### **Referral through other process**

**8H** Where there is no claim pursuant to subsection 4(1), but a person has commenced clarifying title through another process and there are competing claims, the Minister may refer the matter to a commissioner. 2021, c. 7, s. 5.

**Resolution of claim**

**8I** (1) Where a resolution has been reached respecting a claim referred under Section 8F, the commissioner may

(a) recommend to the Minister that a certificate or certificates of title be issued; and

(b) make a decision to award compensation.

(2) Where a resolution has been reached respecting a competing claim under Section 8H, the commissioner may make a decision to award compensation.

(3) The commissioner shall provide reasons for a recommendation and a decision to award compensation made under subsection (1) and for a decision to award compensation made under subsection (2).

(4) A decision whether to award compensation and the amount of any compensation made by the commissioner is not subject to further review or appeal.

(5) An award shall not be paid from the Fund until the later of

(a) when title for the parcel of land with respect to which the decision for an award of compensation is made is registered pursuant to the *Land Registration Act*; and

(b) 25 days after the date the decision of the commissioner is communicated to the parties. 2021, c. 7, s. 5.

**Regulations**

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

(a) prescribing a method for giving notice upon the filing of a certificate of title;

(b) respecting the addition of a land titles clarification area to the Land Titles Initiative;

(c) respecting any additional information required and processes for land claims under this Act;

(d) prescribing the qualifications of persons who may be appointed as commissioners;

(e) respecting the scope of duties of a commissioner and conferring additional powers, functions, duties and responsibilities upon a commissioner;

(f) respecting record-keeping for matters or proceedings before a commissioner;

(g) respecting the valuation criteria for decisions to award compensation;

(h) respecting processes and procedures for alternative dispute resolution;

(i) defining any word or expression used in this Part and not defined in this Part;

(j) respecting any matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*, 2021, c. 7, s. 6.

## PART II

### UNGRANTED LAND

#### Purpose of Part

10 The purpose of this Part is to

(a) facilitate the economic and efficient reconciliation of the Crown's interest in certain ungranted land;

(b) permit the Crown to release its interest in certain ungranted land; and

(c) provide clarity in respect of Crown interests in ungranted land. 2006, c. 15, s. 14.

#### Interpretation of Part

11 In this Part,

(a) "acknowledged Crown land" means land that has been surveyed, managed, confirmed through investigation or used historically by the public as Crown land;

(b) "certificate of release" means a certificate of release issued by the Minister under this Part;

(c) "Crown" means Her Majesty in right of the Province;

(d) "Crown land" means all or any part of land that is under the administration and control of the Minister;

(e) "current" means at the time this part comes into force;

(f) "ungranted land" means Crown land that has never been the subject of a grant transferring ownership from the Crown. 2006, c. 15, s. 14.

#### Certificate under Crown Lands Act

12 Nothing in this Part prejudices a person's right to make a claim or the Minister's power to issue a certificate under Section 37 of the *Crown Lands Act*. 2006, c. 15, s. 14.

#### Certificate of release

13 (1) Notwithstanding Section 15 of the *Crown Lands Act*, where it appears to the Minister that it is desirable to reconcile the Crown's interest in certain ungranted land, the Minister may, with the approval of Governor in Council, issue a certificate of release to the effect that the Crown asserts no interest or claim to that

land and upon issuance of the certificate, all interest or claim of the Crown to that land ceases.

(2) In determining whether it is desirable to reconcile the Crown's interest pursuant to this Section, the Minister shall consider

- (a) the nature and extent of the current and historical usage of the land; and
- (b) any other information the Crown determines necessary to be satisfied that title has been extinguished.

(3) A certificate of release must be filed in the registry of deeds for the registration district or districts in which the land therein described is situate.

(4) A plan of the area as described in the certificate of release must be filed with the certificate in the registry of deeds in the registration district or districts in which the land therein described is situate. 2006, c. 15, s. 14; 2010, c. 55, s. 2.

#### Exclusions

14 No certificate of release may be issued with respect to acknowledged Crown land or land that exhibits no current or historical usage. 2010, c. 55, s. 3.

#### Regulations

15 (1) The Governor in Council may make regulations

- (a) respecting the form of and information to be contained in a certificate of release and plan;
- (b) prescribing guidelines for determining whether it is desirable to reconcile the Crown's interest in land;
- (c) defining any word or expression used in this Part and not defined in this Part;
- (d) respecting any other matter the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Part.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*. 2006, c. 15, s. 14.