

Land Titles Initiative Regulations, NS Reg 123/2022

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Land Titles Initiative Regulations
made under Section 9 of the
Land Titles Clarification Act
R.S.N.S. 1989, c. 250
O.I.C. 2022-176 (effective July 5, 2022), N.S. Reg. 123/2022

Interpretation

Citation

- 1 These regulations may be cited as the *Land Titles Initiative Regulations*.

Definitions

- 2 In these regulations,

“Act” means the *Land Titles Clarification Act*;

“judge” means a judge of the Provincial Court of Nova Scotia, the Nova Scotia Supreme Court, the Nova Scotia Court of Appeal, the Federal Court or the Federal Court of Appeal;

“Minister” means the Minister responsible for the Office of Equity and Anti-Racism Initiatives;

“Office” means of Office of Equity and Anti-Racism Initiatives.

Land Titles Initiative Commissioners

Qualifications of Land Titles Initiative commissioners

- 3 (1) An individual appointed under [Section 8C](#) of the [Act](#) to be a commissioner must meet all of the following qualifications:
- (a) they must be a practising member, in good standing, of the Nova Scotia Barristers’ Society or a retired judge;
 - (b) they must be from a historical African Nova Scotian community or knowledgeable about the unique nature of African Nova Scotian communities.

- (2) The qualifications set out in subsection (1) are sufficient qualifications for the purposes of a commissioner acting as an arbitrator under the *Commercial Arbitration Act*.

Term of commissioners

- 4 A commissioner may be appointed for 3 years or less, and may be reappointed.

Commissioner must provide written reasons

- 5 (1) A commissioner must provide written reasons for any recommendation, decision to award compensation, decision made respecting an arbitration or any other decision or award made in relation to their duties under the Act.
- (2) Except as provided in subsection (3), a commissioner must provide reasons no more than 45 days after the date an arbitration, mediation or other process or proceeding requiring reasons concludes.
- (3) For extraordinary reasons, and in the commissioner's discretion, a commissioner may extend the deadline by which reasons must be provided by providing notice to the parties of the extension.

Fair valuation of real property and real property interests

- 6 (1) A commissioner may retain a real property appraiser to assist in determining the fair value of real property or a real property interest.
- (2) The cost of an appraiser will be paid by the Minister.

Appraisal must account for undervaluation of properties

- 7 In determining fair value, an appraisal must account for any undervaluation of properties in designated land titles clarification areas by means such as using sale values from comparable non-racialized communities and any other means determined by a commissioner.

Annual report

- 8 (1) A commissioner must submit an annual report to the Minister on or before April 30 that provides a summary of the number and types of matters initiated and the number and types of cases brought to resolution by the commissioner in the previous government fiscal year.
- (2) An annual report must be in a form required by the Minister and include any other information the Minister may require.
- (3) Commissioners may jointly or separately submit an annual report.

Arbitrations by Commissioners

Pre-arbitration meeting

- 9 No more than 45 days after the date a matter is referred to a commissioner, the commissioner must hold a pre-arbitration meeting with the parties to set dates, procedure and discuss any other subject the commissioner requires.

Arbitrations proceed under *Commercial Arbitration Act*

10 If a matter referred to a commissioner proceeds by way of an arbitration,

- (a) the arbitration must be conducted in accordance with the *Commercial Arbitration Act*; and
- (b) these regulations and the relevant provisions of the Act form the arbitration agreement for the purposes of [subsection 3\(3\)](#) of the *Commercial Arbitration Act*.

No appeal from arbitration

11 There is no appeal from an arbitration proceeding undertaken by a commissioner for the purposes of the Act.

Commissioner is arbitral panel

- 12**
- (1) If a matter that has been referred to a commissioner proceeds by way of arbitration, the arbitral panel is the commissioner to whom the matter was referred.
 - (2) A commissioner may request that 1 or more other commissioners participate in an arbitral panel and, if the other commissioner or commissioners agree, all of the commissioners constitute the arbitral panel.
 - (3) If there is an even number of commissioners on an arbitral panel and the commissioners' decision does not achieve a majority, the decision and award of the original commissioner is the majority decision and award.

Parties may not by agreement remove commissioner from arbitration

- 13**
- (1) Despite [subsection 15\(5\)](#) of the *Commercial Arbitration Act*, the parties may not agree to remove a commissioner who is acting as an arbitrator.
 - (2) A party that has concerns respecting a commissioner may submit their concerns in writing to the Minister.

Referral of matter to another commissioner for conflict of interest and other issues

14 If a commissioner declares a conflict of interest, requests a change of panel, ends their term early or otherwise ceases to act as a commissioner, the Minister must refer the matter to another commissioner and the new commissioner constitutes the arbitral panel.

Notice of challenge or application

- 15**
- (1) Further to [subsection 3\(2\)](#), a party may not challenge a commissioner acting on an arbitral panel on the basis of not possessing qualifications under [clause 15\(1\)\(b\)](#) of the *Commercial Arbitration Act*.
 - (2) If a party intends to submit to the arbitral panel a challenge of a commissioner acting as an arbitrator under [subsection 15\(1\)](#) of the *Commercial Arbitration Act*, the party must notify the Minister in writing at least 30 days in advance.
 - (3) If a party intends to apply to a court to seek a remedy under either [subsection 15\(7\)](#) or [Section 17](#) of the *Commercial Arbitration Act*, the party must notify the Minister in writing at least 60 days in advance.

Appointing expert

- 16 A commissioner may appoint an expert to assist with an arbitration with or without consulting the parties.

Applicable laws

- 17 The laws of the Province and the laws of Canada applicable to the Province are the laws that a commissioner must apply in an arbitration.

Mediation after arbitration has begun

- 18 (1) If parties agree to adjourn an arbitration proceeding and refer the matters in dispute to mediation, the Office will organize and administer the mediation, including determining the mediation process.
- (2) A commissioner may set a time limit on how long an arbitration proceeding may be adjourned for the purposes of mediation.

Arbitral procedure

- 19 (1) A commissioner must determine the arbitration procedure to be used in the arbitration.
- (2) Without limiting subsection (1), a commissioner may adopt the arbitration procedures set out in Schedule A or Schedule B to the [Commercial Arbitration Act](#), with any modifications the commissioner decides.

Records

- 20 (1) A commissioner must retain a record of an arbitration proceeding including submissions, expert reports, decisions and awards and minutes of settlement from mediation.
- (2) In consultation with the Minister,
- (a) the commissioners must establish reasonable records storage, security, retrieval and other records-related standards;
 - (b) once the mediation, arbitration proceeding and any related proceedings have concluded, the commissioners must transfer the records referred to in subsection (1) to the Province as directed by the Minister.