

SNL2000 CHAPTER U-8  
**URBAN AND RURAL PLANNING ACT, 2000**

Amended:

2003 c5 s5; 2004 cL-3.1 s65; 2004 c47 s35; 2006 c33; 2006 cC-17.1 s48; 2011 c17; 2012 c10 s2;  
2013 c16 s25

CHAPTER U-8

AN ACT TO CONSOLIDATE AND REVISE THE LAW WITH RESPECT TO URBAN AND  
RURAL PLANNING IN THE PROVINCE

(Assented to May 12, 2000 )

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Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened,  
as follows:

## Short title

1. This Act may be cited as the Urban and Rural Planning Act, 2000.

2000 cU-8 s1

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## Definitions

2. In this Act

(a) "authorized administrator" means an authorized administrator appointed under subsection 31(4);

(b) "board" except in Part IX, means an appeal board established under section 40;

(c) "building" means

(i) a structure, erection, alteration or improvement placed on, over or under land or attached, anchored or moored to land,

(ii) mobile structures, vehicles and marine vessels adapted or constructed for residential, commercial, industrial and other similar uses,

(iii) a part of and fixtures on buildings referred to in subparagraphs (i) and (ii), and

(iv) an excavation of land whether or not that excavation is associated with the intended or actual construction of a building or thing referred to in subparagraphs (i) to (iii);

(d) "council" means a council as defined in the City of Corner Brook Act , City of Mount Pearl Act , Municipalities Act, 1999 and the city council as defined in the City of St. John's Act ;

(e) "court" unless the context indicates otherwise, means the Trial Division;

(f) "department" means the department presided over by the minister;

(g) "development" means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of a material change in the use, or the intensity of use of land, buildings or premises and the

(i) making of an access onto a highway, road or way,

(ii) erection of an advertisement or sign,

(iii) construction of a building,

(iv) parking of a trailer, or vehicle used for the sale of refreshments or merchandise, or as an office, or for living accommodation, and excludes the

(v) carrying out of works for the maintenance, improvement or other alteration of a building, being works which affect only the interior of the building or which do not materially affect the external appearance or use of the building,

(vi) carrying out by a highway authority of works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road reservation,

(vii) carrying out by a local authority or statutory undertakers of works for the purpose of inspecting, repairing or renewing sewers, mains, pipes, cables or other apparatus, including the breaking open of street or other land for that purpose, and

(viii) use of a building or land within the courtyard of a dwelling house for a purpose incidental to the enjoyment of the dwelling house as a dwelling;

(h) "development regulations" means regulations made under sections 34 to 38;

(i) "land" includes land covered by water and buildings and structures on, over, under the soil and fixtures that form part of those buildings and structures;

(j) "minister" means the minister appointed under the Executive Council Act to administer this Act;

(k) "municipality" includes a city incorporated under the City of Corner Brook Act , City of Mount Pearl Act and the City of St. John's Act and a municipality as defined in the Municipalities Act, 1999 ;

- (l) "plan", unless the context indicates otherwise, means a regional plan and a municipal plan established under section 8 or 10;
- (m) "planning area", unless the context indicates otherwise, means a regional planning area and a municipal planning area established under sections 6 and 11;
- (n) "region" means a region as defined in the Municipalities Act, 1999 ;
- (o) "regional authority" means a regional authority established under section 7;
- (p) "scheme" means a scheme established under section 29;
- (q) "subdivision" means the dividing of land, whether in single or joint ownership into 2 or more pieces for the purpose of development; and
- (r) "town" means a town as defined in the Municipalities Act, 1999 .

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#### Land use policy

3. (1) The minister may recommend to the Lieutenant-Governor in Council the development and establishment of a land use policy for

- (a) the province;
- (b) a particular area of the province; and
- (c) a particular type of land use.

(2) Before making a recommendation under subsection (1), the minister shall, with respect to a land use policy that is to be recommended, hold consultations with the public in a manner that the minister may determine to be appropriate.

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#### Labrador Inuit rights

3.1 This Act and regulations made under this Act shall be read and applied in conjunction with the Labrador Inuit Land Claims Agreement Act and, where a provision of this Act or regulations made under this Act is inconsistent or conflicts with a provision, term or condition of the Labrador Inuit Land Claims Agreement Act , the provision, term or condition of the Labrador Inuit Land Claims Agreement Act shall have precedence over the provision of this Act or a regulation made under this Act.

2004 cL-3.1 s65

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#### Approval

4. (1) The Lieutenant-Governor in Council may, upon the recommendation of the minister under section 3, approve and establish a land use policy.

(2) A plan prepared under this Act and development undertaken in the province shall comply with all land use policies established by the Lieutenant-Governor in Council under subsection (1).

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#### No compensation

5. A person is not entitled to compensation for a reduction in the value of that person's interest in land or for a loss or damage to that person's interest in land resulting from the application of this Act or a plan authorized under this Act.

2000 cU-8 s5

#### PART I

#### REGIONAL PLANNING



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#### Regional planning areas

6. (1) A council, person or group of persons or a combination of them may apply to the minister requesting him or her to define a regional planning area.

(2) An application under subsection (1) shall be in the required form and shall be accompanied by

(a) a copy of a resolution of each applying council, certified by the mayor or chairperson as having been passed by the council, indicating the desire of the council to establish, with another group or council, a regional planning area;

(b) a copy of an affidavit of other persons representing themselves and each group of persons or combination of them wishing to have the regional planning area established;

(c) a description of the whole area in respect of which the application is made; and

(d) a statement of the arrangements the applicants have made or propose to make for the preparation of the regional plan.

(3) Where an application is made under subsection (1) and it appears to be necessary or desirable, the minister may establish an area of the province described by the applicants as a regional planning area and may define its boundaries.

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#### Regional authority

7. (1) The minister may designate a council, person or group of persons or a combination of them who have applied to him or her under subsection 6(1) as a regional authority for the regional planning area that is the subject of that application.

(2) Notwithstanding subsection (1), the minister may, for a regional planning area for which there is no regional authority designated, be the regional authority for that area.

(3) A regional authority designated under subsection (1) is a corporation.

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#### Regional plan

8. (1) Where a regional planning area has been established under subsection 6(3), the regional authority designated under subsection 7(1) shall prepare and develop a regional plan for that area.

(2) Notwithstanding subsection (1), the minister may designate a council, department of the government of the province or a combination of 2 or more of them to implement a regional plan prepared under subsection (1).

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#### Ministerial regional plan

9. (1) Where the regional authority for a regional planning area is the minister,

(a) the preparation of a regional plan for that area shall include a procedure for consultation with the municipalities and other appropriate persons and organizations in the regional planning area; and

(b) he or she may appoint persons to oversee the consultation procedure and development of the regional plan.

(2) Persons appointed under paragraph (1)(b) shall include representatives from each municipality and other persons and organizations that the minister considers appropriate from the regional planning area.

2000 cU-8 s9

## PART II

### MUNICIPAL PLAN

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#### Municipal plan

10. (1) A council may by resolution propose to prepare a municipal plan in accordance with this Act.

(2) Where a resolution is passed under subsection (1) the council shall apply to the minister requesting him or her to define the municipal planning area for the proposed municipal plan.

(3) An application made under subsection (2) shall be in the required form and shall be accompanied by a

(a) copy of the resolution proposing to prepare the plan, certified by the mayor or the chairperson as having been passed by the council;

(b) description of the whole of the area in respect of which the application is made; and

(c) statement of the arrangements that the council has made or proposes to make for the preparation of the municipal plan.

(4) After a municipal planning area has been established under section 11, the council responsible for that area shall proceed with the development of a municipal plan and development regulations.

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#### Municipal planning area

11. (1) Where an application is made under subsection 10(2), the minister may designate an area in respect of which the application is made as a municipal planning area and may define its boundaries.

(2) A planning area defined under subsection (1) may include land outside of the municipality governed by the council that applied to the minister where, in the opinion of the minister, that land is necessary to enable the council to

(a) exercise control over development relating to the municipality that may occur beyond its boundaries;

(b) control watersheds for the purpose of municipal water supply, whether within or outside its boundaries; or

(c) control the amenities of the municipality.

2000 cU-8 s11

## PART III

### PLANNING

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#### Application of plan

12. A plan and development regulations are binding upon

(a) municipalities and councils within the planning area governed by that plan or those regulations; and

(b) a person undertaking a development in the area governed by that plan or those regulations.

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#### Plan requirements

13. (1) A plan and development regulations made under this Act and amendments to them shall be certified by a person who is a fellow or full member of the Canadian Institute of Planners.

- (2) A plan shall
  - (a) include a statement of the objectives of the plan;
  - (b) indicate the policies to be implemented under the plan;
  - (c) divide land into land use classes and the use that may be made in each class and shall include prohibited uses of land;
  - (d) include proposals for land use zoning regulations;
  - (e) include proposals for the implementation of the plan;
  - (f) provide provisions with respect to non-conforming uses; and
  - (g) provide for the development of the planning area for a 10 year period.
- (3) A plan may, with respect to a planning area
  - (a) describe and determine the physical, economic and social environment;
  - (b) describe existing and proposed transportation networks and proposed networks of streets;
  - (c) establish areas for comprehensive development;
  - (d) propose the phasing in of development;
  - (e) establish a program of public works;
  - (f) provide for the protection, use and development of environmentally sensitive lands;
  - (g) provide for storm water control and erosion control;
  - (h) provide for the protection, use and development of natural resources and for the prevention of natural resource development with incompatible negative impacts;
  - (i) provide for the excavation, filling in or reclamation of land;
  - (j) provide for the non-removal of trees and vegetation and for other environmental matters including requiring that environmental studies be carried out prior to undertaking specified developments;
  - (k) provide for the height and siting of developments;
  - (l) provide for the use and conservation of energy;
  - (m) provide for and recommend the attraction, location, development and diversification of economic activity;
  - (n) provide for garden suites and back lot development;
  - (o) establish locations, provisions for and policies with respect to housing and facilities for senior citizens; and
  - (p) make other proposals, that in the opinion of the council or regional authority are necessary.

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#### Public consultation

14. (1) Where a planning area has been established under section 6 or 11, the council or regional authority responsible for that area shall, during the preparation of a plan and development regulations, provide a consultation opportunity for interested persons, community groups, municipalities, local service districts, regional economic development boards and the departments of the government of the province to

- (a) provide input with respect to the proposed development of the regional or municipal plan; and
- (b) receive information on the development of the plan and development regulations.

(2) A council or regional authority may request that written comments and questions be submitted with respect to the development of a plan.

(3) Consultation under this section shall

- (a) accommodate the size, structure and complexity of planning and policy issues that exist in the planning area under consideration; and

(b) include the presentation of relevant land use and other studies and surveys respecting the development and preparation of the plan.

2000 cU-8 s14

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#### Review of plan

15. (1) After a consultation has taken place under section 14, a council or regional authority shall complete the proposed plan and development regulations in accordance with this Act.

(2) A council and a regional authority shall, in the required form, submit a proposed plan and development regulations to the department for review.

(3) Upon receipt of a proposed plan and development regulations submitted under subsection (2), the department shall review the plan and regulations to determine provincial and other government agency interests and may consult with departments and agencies of the province with respect to those plans and regulations.

(4) Comments received by the department as a result of consultations under subsection (3) shall be forwarded to the regional authority or council to which they apply.

(5) A plan submitted under subsection (2) shall

(a) include the proposed completed plan and regulations; and

(b) include documentation with respect to consultations held under section 14.

(6) The department may recommend a change and amendment to a proposed plan and development regulations submitted under subsection (2).

2000 cU-8 s15

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#### Adoption of plan

16. (1) Following a review under subsection 15(3), a council and a regional authority may, by a majority vote of their members,

(a) adopt the proposed plan and development regulations; or

(b) where the department has recommended a change under subsection 15(6), adopt the proposed plan and development regulations amended in accordance with that recommendation.

(2) A council and a regional authority shall submit, in the required form, the number of copies of the plan and development regulations adopted under subsection (1) that the minister may require.

2000 cU-8 s16

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#### Notice of adoption

17. (1) Where a proposed plan and development regulations have been adopted under subsection 16(1), a council or regional authority shall give notice of that adoption by advertisement inserted twice in a newspaper circulated in the affected area and the first advertisement shall be published not fewer than 14 days before the date fixed under section 18 for the hearing of objections to and representations on the proposed plan and regulations.

(2) Notwithstanding subsection (1), where the minister, a council or regional authority considers it necessary that a proposed plan or development regulations or an amendment to these have more than 14 days public notice before the date fixed under section 18 for the hearing of objections, a greater notice period may be required.

(3) The notice shall state the place and time during which the proposed plan and development regulations may be inspected and the place and time set for the hearing of representations and objections.

(4) A council and a regional authority shall allow the inspection of the proposed plan and development regulations from the time of the first publication of the notice under subsection (1) until the date fixed for the hearing of the matter.

2000 cU-8 s17

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#### Public hearing

18. (1) Where a proposed plan and development regulations have been adopted under subsection 16(1), a council or a regional authority shall set a date, time and place for the holding of a public hearing to consider objections and representations which may be made by a person or association of persons to the plan or development regulations or a part of them.

(2) A public hearing referred to in subsection (1) shall be held within the area under the jurisdiction of the applicable council or regional authority.

2000 cU-8 s18

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#### Commissioner and hearing

19. (1) Where a proposed plan and development regulations have been submitted under subsection 16(2), a council or regional authority shall appoint a commissioner and may appoint one other person that is considered necessary to help the commissioner in holding a public hearing and to complete a report on that hearing.

(2) A commissioner appointed under subsection (1) has, for the purpose of a public hearing under this Act, the same powers as a commissioner under the Public Inquiries Act.

(3) A commissioner is entitled to reimbursement for costs and expenses and shall be remunerated in the manner that the minister may establish.

(4) The council or regional authority shall, within 30 days of receiving an invoice for remuneration, costs and expenses, pay to the commissioner the remuneration, costs and expenses related to the public hearing conducted by him or her.

(5) Remuneration, costs and expenses paid under this section shall be a first charge of the commissioner against the council or regional authority.

(6) A commissioner appointed under subsection (1) shall not be a member or an employee of a council or regional authority in the province.

2000 cU-8 s19

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#### Objections and representations

20. Not fewer than 2 days before the date set for the public hearing, a person or an association of persons may submit to the appropriate council or regional authority 2 signed, written statements of objections and representations with respect to a plan, development regulations or a part of them.

2000 cU-8 s20

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#### Public hearing

21. (1) Where no objection is made under section 20, the council or regional authority may cancel the public hearing.

(2) On the date and at the time fixed for the public hearing, the commissioner shall proceed with the hearing and shall hear objections and representations orally or in writing under oath or affirmation.

2000 cU-8 s21

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## Report

22. (1) Where a public hearing held under this Part is completed, the commissioner shall in the case of a plan and development regulations referred to in subsection 16(2), submit a written report on the public hearing to the council or regional authority together with 2 copies of evidence taken at the public hearing.

(2) In a report submitted under subsection (1), a commissioner shall set out in detail his or her recommendations respecting objections and representations considered by him or her at the public hearing together with reasons and a statement showing objections and representations that came to the attention of the commissioner but were not considered together with the reasons why they were not considered.

2000 cU-8 s22

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## Approval of report by council

23. (1) Where a report is submitted to a council or regional authority under subsection 22(1), the council or regional authority shall consider the report and

(a) where it considers it necessary, make changes to the plan and development regulations; and

(b) may withdraw the submitted plan and development regulations.

(2) Where changes are made to the plan or development regulations under subsection (1), a new public hearing may be held with respect to the changes and sections 18 to 22 shall apply to those changes.

(3) Where changes are not made under subsection (1) or where changes are made

(a) without further reference to a public hearing; or

(b) a changed plan or development regulations have been reported on and submitted to the regional authority or council under subsection 22(1), the council or regional authority shall consider and approve the plan or development regulations as submitted or as amended.

(4) Two copies of a plan and development regulations, in the required form, as submitted or amended and approved under subsection (3) shall be submitted to the minister together with the commissioner's report, objections and representations.

2000 cU-8 s23

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## Government policy review and plan registration

24. (1) The minister shall review a plan, development regulations and other documents submitted under subsection 23(4) to determine if they are contrary to law or a policy of the government of the province and where not contrary to law or a policy shall register the plan and development regulations in the planning registry that the minister shall establish in the department for that purpose.

(2) Where a plan and development regulations are registered under subsection (1), the council or regional authority shall, within 10 days of being notified of that registration, publish a notice of that registration in the Gazette and a newspaper in circulation in the area affected by the plan and development regulations.

(3) The date upon which a notice in the Gazette is published under subsection (2) shall be considered to be the date of coming into force of the registered plan and development regulations that are the subject of that notice.

(4) Where the minister, does not register a plan and development regulations, he or she shall return the plan and development regulations to the council or regional authority together with reasons for their unacceptability and the council or regional authority shall make the requested

changes and resubmit the plan and development regulations to the minister and subsections (1) to (3) and section 23 shall apply to that plan and those regulations.

2000 cU-8 s24

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#### Amendment of plan

25. A council or a regional authority may make an amendment to a plan and development regulations registered under section 24 and sections 14 to 24 apply, with the necessary changes, to that amendment.

2000 cU-8 s25

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#### Minister may undertake duties

26. The minister may, where

- (a) requested by a council or regional authority; or
- (b) he or she considers it necessary,

carry out the duties imposed upon a council or regional authority under sections 17 to 25 as if he or she was that council or regional authority.

2000 cU-8 s26

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#### Costs charged

27. (1) Where an amendment has been requested by a person or an association of persons other than the regional authority or council, the cost of carrying out that amendment shall be charged to those persons, as a fixed proportion of the cost of that amendment and the proportion shall be same for each proposed amendment.

(2) A council or regional authority shall annually, as a part of its budget, establish a proportion of cost to be paid under subsection (1).

(3) The costs of developing and reviewing a plan and development regulations under sections 8, 10 and 28 shall not be recovered.

2000 cU-8 s27

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#### Review

28. (1) A council and a regional authority shall review a plan and development regulations not more than 5 years after the date on which the plan and development regulations came into force and may revise these as necessary in accordance with the developments that can be foreseen during the next 10 years.

(2) Sections 14 to 25 apply to an amendment and a revision of a plan and development regulations required after a review under subsection (1).

(3) Where, after a review under this section, a council or regional authority determines that changes to a plan or development regulations are not required, the regional authority or council may, by a majority vote of councillors or members of the regional authority, retain the existing plan and regulations and a copy of that decision together with a report on the consultation shall be submitted to the minister for registration.

2000 cU-8 s28

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#### Development schemes

29. (1) Where a plan and development regulations have been registered under section 24, a council or regional authority responsible for them may prepare and adopt a development scheme for the purpose of

(a) ensuring that a proposal contained in the plan will be carried out or will be carried out in a particular manner;

(b) amplifying the details of the proposal; and

(c) carrying out local improvement schemes.

(2) A development scheme prepared and adopted under subsection (1) may

(a) provide for the acquisition, assembly, consolidation, subdivision, sale or lease of land and buildings that are necessary to carry out the development scheme;

(b) reserve land for future acquisition as the site or location of a public highway, service or building or for a school, park or other open space;

(c) specify the manner in which a particular area of land is to be used, subdivided or developed and regulate or prohibit the construction of buildings that would interfere with the carrying out of the development scheme; and

(d) make land available for agricultural, residential, commercial, industrial or other uses.

(3) A development scheme adopted under subsection (1) shall describe and set out the

(a) manner in which the scheme is intended to implement a proposal or part of a proposal contained in the plan;

(b) land affected by the scheme;

(c) details of the

(i) development to be carried out,

(ii) land to be reserved and the manner in which the reservation is to be effected, or

(iii) manner in which land affected by the scheme is to be subdivided; and

(d) other pertinent information.

2000 cU-8 s29

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Application of sections 14 to 25

30. Sections 14 to 25 shall apply to a development scheme as if that scheme was a plan and a development scheme shall be read together with and form a part of the plan to which it relates.

2000 cU-8 s30

**PART IV**

**LOCAL, PROTECTED AREA AND PROTECTED ROAD PLANS**

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Local planning and protected areas

31. (1) Where it appears necessary or desirable, the minister may declare an area outside a municipality to be

(a) a local planning area; or

(b) a protected area, where, in his or her opinion, control should be exercised over development in order to preserve an area of natural beauty or amenity, and the minister may define the boundaries for that local planning area or protected area.

(2) Where a local planning area has been defined under paragraph (1)(a), the minister shall authorize the preparation of a plan to be known as a local area plan for the physical development and improvement in a systematic and orderly manner of the local planning area based upon public convenience and general welfare, economic use of the land, improved facilities for traffic, transportation, sewage disposal, water supply, schools, parks and recreation and other public requirements.



(3) Where a protected area has been declared under paragraph (1)(b), the minister shall authorize the preparation of a plan that he or she considers necessary for the conservation and development for public use of the natural amenities of the area.

(4) Where a local planning or protected area plan is established under subsection (1), the minister shall appoint an authorized administrator to implement and enforce the local planning or protected area plan as if the authorized administrator were a council.

2000 cU-8 s31

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#### Protected roads

32. (1) The minister may declare an existing or proposed highway, road or way as a protected road for the purpose of controlling development alongside that protected road.

(2) The minister shall develop a plan for a highway, road or way declared as a protected road under subsection (1).

(3) The minister is responsible for the administration of plans made under this section and may delegate that responsibility to a division of a department of the government of the province other than that of the minister.

2000 cU-8 s32

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#### Application and binding nature

33. (1) Sections 14, 19, 20, 21, 22, 24 and 25 apply, with the necessary changes, to plans made under this Part.

(2) A local area, protected area and protected road plan made under this Part is binding upon

(a) municipalities and councils within the area governed by the plan; and

(b) a person undertaking a development in the area governed by the plan.

2000 cU-8 s33

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#### Costs on amendment

33.1 (1) Where, under the authority of section 25 a person requests an amendment to a plan made under this Part, the minister shall charge all costs associated with the amendment of the plan to the person requesting the amendment.

(2) Notwithstanding subsection (1), the Lieutenant-Governor in Council may waive the costs required to be charged by the minister under that subsection.

2011 c17 s1

#### PART V

#### REGULATIONS

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#### Interim development regulations

34. (1) The minister may make interim development regulations

(a) prohibiting the development of land in the planning area without the approval of the council or regional authority;

(b) prescribing that an application for the development of land within a planning area not be approved by the council or regional authority unless it conforms to standards or an outline plan referred to the council or regional authority by the minister;

(c) providing for the issuance of conditional consent with respect to specified forms of land development or specified localities in the planning area;

- (d) providing for the approval for a limited period of the development of land or buildings in the planning area;
  - (e) respecting the discontinuance of developments and the restoration of land on which development has occurred;
  - (f) respecting the exercise by the council or regional authority of powers that in the opinion of the minister are necessary or desirable for the purpose of this Act;
  - (g) respecting appeals of decisions of a council, regional authority or authorized administrator made under this Act;
  - (h) limiting the application of the regulations to developments specified in the regulations or exempting from the application of the regulations, developments or a class of land use; and
  - (i) respecting the non-conforming development and use of land.
- (2) Interim development regulations made under subsection (1) shall apply in a planning area
- (a) until the land use zoning and subdivision regulations required under this Act are brought into force; or
  - (b) not longer than 5 years immediately after that planning area was designated under section 6 or 11; or
  - (c) where the minister renews the application of the interim development regulations, for a further period that the minister may determine.
- (3) Interim development regulations made under this section may apply in all or in part of the planning area as specified by the minister in the regulations.
- 2000 cU-8 s34; 2006 c33 s1
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#### Council and regional authority etc. regulations

35. (1) A council or regional authority shall, to ensure that land is controlled and used only in accordance with the appropriate plan or scheme, make development regulations
- (a) respecting land use zoning and shall require for that zoning, a map that divides the planning area into land use zones;
  - (b) indicating permitted, prohibited and discretionary uses of land in each land use zone;
  - (c) respecting the requirements for residential lots and access to residential lots;
  - (d) respecting the development of and requirements for subdivisions;
  - (e) respecting development permits including
    - (i) different types of permits,
    - (ii) the application for and issuance of permits,
    - (iii) required fees, forms and information with respect to permits,
    - (iv) approval in principle of permits,
    - (v) processing, cancellation, suspension and refusal of permits,
    - (vi) conditions applicable to a permit or type of permit,
    - (vii) length of time for which permits are valid, and
    - (viii) the discretion and variance powers available to the council or regional authority with respect to the issuance of a permit;
  - (f) requiring that an applicant for a permit be provided with available information and requirements applicable to the application;
  - (g) requiring that a decision of a council or regional authority with respect to a permit be in writing and state reasons for a refusal of or conditions placed upon a permit;
  - (h) respecting reasonable minimum notice periods for the council or regional authority for decisions respecting discretionary land use, non-conforming land use and variances;
  - (i) respecting public notice for permit applications and requiring that the cost of that notice be borne by the applicant;
  - (j) respecting the non-conforming development and use of land;

- (k) respecting financial guarantees of applicants with respect to a proposed development;
- (l) respecting appeals of decisions to boards; and
- (m) respecting the enforcement of permit requirements.

(2) Regulations made under subsection (1) shall be administered and enforced by the appropriate council or regional authority and shall conform to the requirements of this Act.

(3) Sections 14 to 24 apply, with the necessary changes, to regulations made under this section.

(4) A permit issued under regulations made under subsection (1) only applies to the land for which the permit is given regardless of the transfer, sale or exchange of that land.

(5) Notwithstanding subsection (3) and section 25, where there is a proposed change in a regulation made under this section that has not occurred as a result of a change in a plan, a council or regional authority responsible for the changed regulation shall only give notice of those proposed changes in a newspaper circulated in the area and shall receive representations with respect to those changes before forwarding the regulations to the minister for registration under section 24.

2000 cU-8 s35

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#### Ministerial development regulations

36. (1) The minister shall, as follows, make development regulations that shall be included in the development regulations of councils and regional authorities with respect to

- (a) appeals made under the Act;
- (b) allowable variances in development standards to a maximum of 10%;
- (c) the non-conforming development and use of land; and
- (d) the enforcement of violations under the Act.

(2) The minister may make regulations that shall be included in council and regional authority regulations

(a) defining terms for the purpose of regulations made under this section and sections 34 and 35;

(b) respecting subdivisions and subdivision agreements;

(c) to control, direct or prohibit development in the province or an area of the province;

(d) respecting the licensing of development in the province or an area of the province;

(e) controlling and directing the design, subdivision and appearance of buildings, land and development;

(f) controlling and directing the maintenance, use and occupancy of buildings, land and development;

(g) establishing required and prohibited contents and forms of agreements, including development and subdivision agreements;

(h) respecting forms, fees and procedural matters and parameters applicable to decision making and the application for and issuance of permits; and

(i) establishing waiting periods and times for and restricting reapplication for permits for development where the original application has been refused.

(3) The minister may make regulations

(a) respecting the zoning of protected roads;

(b) respecting development and the control of development along protected roads;

(c) for the purpose of regulating, controlling, directing, prohibiting or licensing development and controlling and directing the design, subdivision, appearance, maintenance, use and occupancy of buildings, land and development in the province; and

(d) to give effect to the purpose of this Act.

(4) Where regulations are made under this section that are contrary to existing development regulations of a council or regional authority, that council or regional authority shall make the

required changes to their regulations to bring them into conformity with the regulations made under this section.

2000 cU-8 s36

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#### Dedication of land for public use

37. (1) A council or regional authority may make regulations requiring that an applicant for a permit for a subdivision dedicate to the council or regional authority, not more than 10% of the subdivision or land to be developed for park land or other public use.

(2) Land dedicated under subsection (1) shall be conveyed at a cost of \$1 to the council or regional authority under whose jurisdiction the land is located.

(3) Where it is not feasible or desirable to set aside a proportion of the land under subsection (1), the applicant may pay an amount of money to the council or regional authority that is equivalent to the value of the land in that subdivision that would have been conveyed under subsection (2).

(4) Where an agreement cannot be reached on the amount of money to be paid under subsection (3), a board of arbitrators shall fix the amount as if the land were expropriated under Part IX.

(5) Where the subdivision or land development for which a permit is required consists of land for which there are 2 or more persons holding an interest in the land, the costs of a land dedication, conveyance or money payable under subsection (2), (3) or (4) shall be shared proportionally among those persons.

(6) A council or regional authority may sell or lease land conveyed to it under subsection (2).

(7) Land dedicated and conveyed for a park or another public use under this section that is not sold or leased under subsection (6) shall be used for that dedicated purpose.

(8) A council or regional authority may, for a development that is not a subdivision, require that the owner of the land being developed convey to the council or regional authority, for a public purpose, a portion of the land proposed for development.

(9) Where a council or regional authority and the owner of land to be conveyed under subsection (8) cannot agree as to the cost of the land, Part IX shall apply to that conveyance.

2000 cU-8 s37

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#### Development guarantees

38. (1) A council or regional authority responsible for regulations made under this Part may, in those regulations, require that a person, before starting a development, make financial provisions to guarantee the payment of service levies, ensure site reinstatement and to enforce the carrying out of another condition attached to a permit or licence.

(2) The form of a financial provision required under subsection (1) shall be determined by a council or regional authority and may be

(a) a cash deposit from the developer, to be held by the council or regional authority in accordance with the regulations made by them;

(b) a guarantee of a bank or other institution acceptable to the council or regional authority;

(c) a performance bond provided by a corporation authorized under the laws of Canada or of the province to give it;

(d) an annual contribution to a sinking fund held by the council or regional authority as may be provided by their regulations; or

(e) another form of financial guarantee that the council or regional authority may approve.

2000 cU-8 s38

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### Conflict and retroactivity of regulations

39. (1) Where a regulation made under this Act conflicts with a regulation, by-law or order of the same nature made under another Act of the province, the regulation made under this Act shall prevail.

(2) Regulations made under this Part may, with the prior approval of the minister, be made with retroactive effect.

2000 cU-8 s39

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### Violation notice

39.1 (1) A council may, where authorized by the minister and by regulation, issue a violation notice to a person who contravenes a regulation made by the minister or that council under this Act.

(2) A violation notice issued to a person under this section shall state on that notice

(a) the contravention to which the notice applies;

(b) the time and date of the contravention;

(c) that a voluntary payment out of court of a stated amount may be made to the municipality within a time stated on the notice and the amount to which it will increase where payment is voluntarily made to the municipality by a later date stated on the notice;

(d) that where payment is voluntarily made to the municipality for the contravention stated on the notice, no further action will occur with respect to that contravention; and

(e) that where payment is not voluntarily made to the municipality as laid out in the notice, a summons will be issued with respect to the contravention stated on the violation notice.

(3) Where a violation notice is issued to a person for a contravention of a regulation to which this section applies, that person may voluntarily pay to the municipality

(a) the amount; and

(b) within the time,

stated on that notice.

(4) A council shall not issue a violation notice except in accordance with this section and regulations made under section 39.3.

2003 c5 s5

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### Issuance of summons

39.2 (1) Where a person who has received a violation notice under section 39.1 does not voluntarily make a payment to the municipality within the time stated on that notice, the municipality may charge that person by way of a summons, including a summons that is issued by means of a ticket under the Provincial Offences Act , with an offence in respect of the contravention stated on that notice.

(2) Notwithstanding that a municipality has not issued a violation notice under section 39.1, the municipality may charge a person by way of a summons, including a summons that is issued by means of a ticket under the Provincial Offences Act , with an offence for a contravention of a regulation for which a violation notice may be issued under that section.

(3) Where a person is convicted of an offence for which a summons referred to in subsection (1) or (2) was issued, and as a result of that conviction is liable to pay a fine, the amount of that fine paid into the court shall be paid out of the court to the municipality.

(4) Where a person

(a) is convicted of an offence for which a summons referred to in subsection (1) or (2) was issued; and

(b) does not pay the fine imposed with respect to that conviction within the required time; and

(c) owns the property or business to which the offence relates,  
that fine shall be collected and recovered from that person in the same manner that taxes and assessments may be collected and recovered under whichever of the City of Corner Brook Act, City of Mount Pearl Act, Municipalities Act, 1999 or City of St. John's Municipal Taxation Act applies to the council that issued the summons under this section with respect to that property or business.  
2003 c5 s5; 2006 cC-17.1 s48

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#### Regulations

39.3 The minister may make regulations

- (a) to authorize a council to issue violation notices;
- (b) to establish the regulatory contraventions for which a council may issue violation notices and summonses to which sections 39.1 and 39.2 apply;
- (c) to establish the times by which a payment is to be made with respect to a violation notice issued under section 39.1;
- (d) to establish voluntary payment amounts that may be paid with respect to a violation notice issued under section 421.1; and
- (e) to establish fines with respect to offences for which a summons was issued in accordance with section 39.2.

2003 c5 s5

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#### Employee designation

39.4 A council may designate an employee or a class of employees who may issue a

- (a) violation notice under section 39.1; and
- (b) summons under section 39.2.

2004 c47 s35

#### PART VI

#### APPEALS

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#### Appeal boards

40. (1) The minister may, by order, establish those appeal boards that he or she considers necessary and shall assign to each appeal board a specific area of the province over which it shall have jurisdiction.

(2) Notwithstanding subsection (1), the City of Corner Brook , City of Mount Pearl and City of St. John's may, for the planning areas under their jurisdiction and in accordance with the development regulations, appoint a local appeal board and this Part, with the necessary changes shall apply to those boards.

2000 cU-8 s40

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#### Board structure

41. (1) The minister shall appoint to a board established under subsection 40(1), not fewer than 3 and not more than 5 persons.

(2) A member of a board holds office for 3 years and may be reappointed for a further 3 years.

(2.1) Notwithstanding subsection (2), a member shall continue to be a member until he or she is reappointed or replaced.

(3) A board shall be presided over

(a) by a chairperson whom the minister shall appoint from among the appointed members of the board; or

(b) in the absence of the chairperson, by another person who is a member of that board.

(4) A majority of the members of a board constitutes a quorum.

(5) A member of a board shall receive remuneration and shall be reimbursed for expenses incurred in the conduct of his or her duties in a manner that may be determined by the Lieutenant-Governor in Council.

(6) The minister may appoint a secretary to a board or a secretary common to 2 or more boards and shall determine the remuneration payable to that secretary.

(7) The minister shall establish

(a) rules of procedure for boards;

(b) notice periods that shall be required with respect to appeals; and

(c) the manner in which persons are to be notified with respect to appeals.

(8) For the purpose of holding an inquiry under this or another Act, members of a board have all of the powers of a commissioner under the Public Inquiries Act .

(9) In the conduct of an inquiry or a hearing, a board is not bound by the rules of evidence.

(10) Where it is necessary for the purpose of an appeal, inquiry or other matter before a board, a member of the board or a person designated by the board may enter upon land and other property in order to inspect that land or property.

2000 cU-8 s41; 2011 c17 s2

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## Appeal

42. (1) A person or an association of persons aggrieved of a decision that, under the regulations, may be appealed, may appeal that decision to the appropriate board where the decision is with respect to

(a) an application to undertake a development;

(b) a revocation of an approval or a permit to undertake a development;

(c) the issuance of a stop work order; and

(d) a decision permitted under this or another Act to be appealed to the board.

(2) A decision of a council, regional authority or authorized administrator to adopt, approve or proceed with a plan, scheme, development regulations and amendments and revisions of them is final and not subject to an appeal.

(3) An appeal board shall not make a decision that does not comply with a plan, scheme and development regulations that apply to the matter being appealed.

(4) An appeal made under this section shall be filed with the appropriate board not more than 14 days after the person who made the original application appealed from has received the decision being appealed.

(5) An appeal shall be made in writing and shall include

(a) a summary of the decision appealed from;

(b) the grounds for the appeal; and

(c) the required fee.

(6) A board may meet as often as it considers necessary to conduct its work in an expeditious manner.

(7) A person or group of persons affected by the subject of an appeal or their representatives may appear before a board and make representations concerning the matter under appeal.

(8) A board may inform itself of the subject matter of the appeal in the manner it considers necessary to reach a decision.

(9) A board shall consider and determine appeals in accordance with this Act and a plan, scheme and regulations that have been registered under section 24 and having regard to the circumstances and merits of the case.

(10) In determining an appeal, a board may confirm, reverse or vary the decision appealed from and may impose those conditions that the board considers appropriate in the circumstances and may direct the council, regional authority or authorized administrator to carry out its decision or make the necessary order to have its decision implemented.

(11) Notwithstanding subsection (10), where a council, regional authority or authorized administrator may, in its discretion, make a decision, a board shall not make another decision that overrules the discretionary decision.

(12) The decision of a majority of the members of a board present at the hearing of an appeal shall be the decision of the board.

(13) A board shall, in writing notify the appellant and the appropriate council, regional authority or authorized administrator of the decision of the board.

2000 cU-8 s42

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#### Hearing of evidence

43. (1) Notwithstanding subsection 42(7), where

(a) due to the isolation of an area that is the subject of an appeal, it would be difficult or costly for a board to hear representations from a council, regional authority, authorized administrator or other person; or

(b) the parties to an appeal agree in writing, a council, regional authority, authorized administrator and other persons who are parties to the appeal may

(c) submit written arguments to the board; or

(d) present arguments by teleconference, telephone or other electronic means, and the board may deliberate and make a determination on the matter based upon those written or other submissions.

(2) Where a board considers it necessary to visit and view a property that is the subject of an appeal, one member of that board or another person whom the board may authorize, may make that visit and, in writing, report to the board on the visit and viewing of the property.

(3) Information provided to a board under subsections (1) and (2) shall be considered to have been provided in the same manner as evidence before a board during a hearing of an appeal under section 42.

2000 cU-8 s43

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#### Fees

44. (1) The minister may establish fees for the making of appeals under this Part.

(2) A fee paid under subsection (1) shall be paid to the board hearing the matter and shall be retained by that board.

(3) Where an appeal made under section 42 is successful, an amount of money equal to the fee paid by the appellant under subsection (1) shall be paid to the appellant by the council, regional authority or authorized administrator that made the appealed decision.

2000 cU-8 s44

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Development may not proceed



45. (1) Where an appeal is made under section 42, the development with respect to the appeal, work related to that development or an order that is under appeal shall not proceed or be carried out, pending a decision of the board.

(2) Where, on appeal, a permit to develop is confirmed or ordered to be issued, a council, regional authority or authorized administrator shall issue the permit as confirmed or ordered.

2000 cU-8 s45

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#### Appeal to court

46. (1) A decision of a board may be appealed to the court not later than 10 days after that decision has been received by the appellant.

(2) An appeal of a decision of a board under subsection (1) may be made on a question of law or jurisdiction.

(3) A board may be represented by counsel and heard on an appeal under this section.

(4) The court shall either confirm or vacate the order of the board and where vacated the court shall refer the matter back to the board with the opinion of the court as to the error in law or jurisdiction and the board shall deal with the matter in accordance with that opinion.

2000 cU-8 s46

#### PART VII

#### DEVELOPMENT CERTIFICATES

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#### Development certificates

47. (1) In order to ensure that development in an area of the province or within the province as a whole takes place in an orderly manner, the Lieutenant-Governor in Council may by order declare that one or more specific classes of development in that area or in the province as a whole, as specified in the order, require a development certificate from the minister or another minister of the Crown or person specified in the order, and may establish terms and conditions under which a development certificate may be issued.

(2) A development certificate required under subsection (1) shall be in addition to a permit or licence that may be required under a regulation made under this or another Act.

(3) An order made under subsection (1) may require that a development certificate be required for the class of development specified in the order notwithstanding that a permit or licence may not be required under a regulation made under this or another Act.

2000 cU-8 s47

#### PART VIII

#### REFERENCE OF APPLICATIONS TO MINISTER

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#### Applications referred to minister

48. (1) The minister may direct that an application submitted to a council, regional authority or authorized administrator in accordance with the requirements of regulations made under Part V be referred to him or her instead of being dealt with by that council, regional authority or authorized administrator responsible for those regulations.

(2) The minister shall only give a direction under subsection (1) where in his or her opinion it is in the special interest of an area of the province or the province as a whole to do so.

(3) A direction under this section may

(a) be given either to a particular council, regional authority or authorized administrator or to them generally; and

(b) relate either to a particular application or to applications of a class specified in the direction.

(4) Where an application is referred to the minister under this section, this Act and the regulations shall apply, with the necessary changes, as they would apply to the application if it were to be determined by the council, regional authority or authorized administrator.

(5) Before making a decision in relation to an application under this section, the minister shall, where either the applicant, council, regional authority or authorized administrator wishes, give to each of them an opportunity of appearing before, and being heard by, a person whom the minister shall appoint for that purpose.

(6) Where an application is referred to the minister under this section, the council, regional authority or authorized administrator shall serve on the applicant notice of the terms of the direction under which it is referred and the notice shall contain a statement that the minister will give the applicant an opportunity of appearing before and being heard by a person appointed by the minister for that purpose.

(7) The decision of the minister on an application to him or her under this section is final and binding on the parties.

2000 cU-8 s48

## PART IX

### EXPROPRIATION

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#### Definitions

49. In this Part

(a) "board" means a board of assessors appointed under section 64 ; and

(b) [Rep. by 2013 c16 s25]

2000 cU-8 s49; 2013 c16 s25

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#### Expropriation

50. (1) A council may, with the approval of the minister, expropriate property, land or an interest in land in accordance with this Part for the use of the council for the purpose of the powers given to the council under the Municipalities Act, 1999 .

(2) The minister and a council or a regional authority, with the approval of the minister, may, in accordance with this Part, acquire by expropriation or otherwise, land or an interest in land where that land or interest is essential to the carrying out of a plan, including a plan under Part IV, or regulation, together with

(a) remnants and portions of parcels of land that are necessary for carrying out that plan or regulation; or

(b) land that may be injuriously affected by that plan or regulation.

(3) The minister and a council or regional authority with the approval of the minister, may dispose of land acquired under subsection (1) or (2).

(4) An expropriation made under subsection (1) or (2) may be made provided that

(a) an agreement cannot be reached on the amount to be paid for the land or on other terms of the purchase of the land;

(b) the owner of the land, after reasonable inquiry, is not known or cannot be found by the minister, council, or regional authority;

(c) the owner of the land is incapable of conveying the land or his or her interest in it; or

(d) for another reason the minister, council or regional authority thinks it advisable to expropriate the land.

2000 cU-8 s50

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#### Right of entry

51. (1) Where the minister, a council or regional authority thinks it necessary for the performance of anything authorized to be done under this Act, or a council thinks it necessary or desirable with respect to the performance of anything authorized to be done under the City of Corner Brook Act, the City of Mount Pearl Act or the Municipalities Act, 1999, employees, engineers, contractors or another person authorized by them may

- (a) enter upon Crown land or upon the land of a person;
- (b) at reasonable times enter houses, buildings, tenements or erections upon the land; and
- (c) do and execute all the works and things that may be required for the purpose of that entry under paragraphs (a) and (b).

(2) The minister, council or regional authority shall compensate the owner of land injuriously affected by an act done under this section and in default of agreement between the minister, council or regional authority and the owner the amount of compensation shall be determined and paid in the same manner as nearly as may be and with the same effect as compensation is determined and paid under this Part.

(3) The minister, a council and a regional authority may ascertain and delimit land to be expropriated, and for that purpose a person authorized by them may enter upon land and do work necessary in the opinion of that person to ascertain and measure and obtain or prepare a plan and description of the land to be expropriated.

2000 cU-8 s51

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#### Notice of expropriation

52. (1) The minister, council or regional authority intending to expropriate land shall serve a written notice on the owner of the land to be expropriated and on other persons who are known to have an interest in the land at the time when the notice is served.

(2) Where the owner is incapable of conveying the land, cannot be found in the province, is not known or for another reason personal service cannot be conveniently effected, the minister, a council or regional authority shall

- (a) post a written notice in a conspicuous place on the land to be expropriated; and
- (b) publish a notice in one or more newspapers published in the province and circulating in the area where the land that is being expropriated is located, requiring persons who may be interested in the land to file a claim not later than 3 months after the date of the notice.

(3) Three or more months after the posting or publication of the notice referred to in subsection (2) a board may determine the amount of compensation payable in respect of the expropriated land and a claimant who has failed to file a claim is bound by the award of the board.

(4) A notice of expropriation shall

- (a) contain a description of the land to be expropriated;
- (b) state the purpose for which the land is required and that it is being taken for that purpose under this Act;

- (c) name the minister, council or regional authority on whose behalf the land is being expropriated and in whom title to the land will vest; and

- (d) be signed by the clerk of the council or regional authority or by the minister carrying out the expropriation.

2000 cU-8 s52

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#### Owner may be required to file claim

53. (1) Where a notice of expropriation is served on the owner of the land that is being expropriated, the notice may require the owner to file a claim for compensation with the minister, council or regional authority not later than 3 months after the date of service of the notice but the

minister, council or regional authority may extend the time for the filing that is considered appropriate by them.

(2) Where the owner of the land which is being expropriated is required to file a claim for compensation under subsection (1) and does not do so within the time fixed or within the further period that is fixed, a board may fix the amount of compensation to be paid and the award of the board is final.

2000 cU-8 s53

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#### Limited estate required

54. Where land expropriated under this Part is required for a limited time only or where only a limited estate, right or interest in land is required, the notice of expropriation shall indicate that and the compensation payable in respect of that land shall be fixed accordingly.

2000 cU-8 s54

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#### Rights of mortgagees and lien holders

55. (1) Where the land to be expropriated is subject to a mortgage or lien and the mortgagee or lien holder is known to the minister, council or regional authority a copy of the notice of expropriation shall be served on the mortgagee or lien holder.

(2) Where the claim of a mortgagee or lien holder has been proved to the satisfaction of the minister, council or regional authority, the amount secured by the mortgage or lien shall be deducted from the compensation payable and be paid by the minister, council or regional authority to the mortgagee or lien holder and the receipt of the mortgagee or lien holder is a valid discharge for the amount of the compensation paid in satisfaction of the mortgage or lien.

(3) An action does not lie against the minister, council or regional authority for a loss or damages suffered by the mortgagee or lien holder because of the failure of the minister, council or regional authority to comply with this section.

2000 cU-8 s55

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#### Error not to invalidate expropriation

56. (1) An error in a notice of expropriation does not invalidate the expropriation of the land.

(2) A notice of expropriation may be amended and that amendment shall be served or posted and registered in accordance with this Part as if it were a notice of expropriation and shall be considered to have been served or posted at the same time as the notice of expropriation that is amended.

2000 cU-8 s56

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#### Notice of expropriation where compensation agreed

57. (1) A notice of expropriation may be given and an expropriation may be made under this Part where an agreement as to the compensation to be paid has been made between the minister, council or regional authority and the person who in their opinion is the apparent owner of the land and title to the land cannot be conveniently or readily transferred by the apparent owner.

(2) Subsections 52(2), (3) and (4) apply so far as it is necessary for a notice of an expropriation made under subsection (1).

(3) Where land is expropriated under subsection (1) a reference shall not be made to a board where the apparent owner of the land establishes title to the land but, where it is found that the apparent owner is not the true owner of the land, compensation shall be assessed and paid to or in respect of the true owner in accordance with this Part.

2000 cU-8 s57

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#### Vesting of title

58. (1) Ten days after the latest date by which a notice of expropriation is served, posted or published in accordance with this Part, the title to the land vests in the council or regional authority named in the notice of expropriation and, where a council or regional authority is not named in the notice, the title to the land vests in the minister for and on behalf of the Crown.

(2) Where a person resists or opposes a minister, council or regional authority or a person acting on their behalf in entering upon and taking possession of or exercising power in respect of expropriated land after the title to the land has vested under subsection (1), a judge of the court may, on proof of service of the notice of expropriation or of its posting or publication, order the sheriff or a peace officer to put the minister, council or regional authority or some person acting on their behalf in possession of the land.

(3) The sheriff or peace officer shall carry out the order made under subsection (2) and shall immediately make a return to the court stating the manner in which he or she executed the order.

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#### Register of expropriations and approvals

59. (1) The minister, a council or a regional authority shall keep a register containing the particulars of expropriations under this Part and of notices and awards which have been served, posted, published or made in connection with those expropriations.

(2) The minister shall establish and maintain a register of expropriation approvals given under this Part.

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#### Registration of notices of expropriation

60. (1) A copy of a notice of an expropriation that is endorsed or to which is attached an affidavit or a certificate of oath or affirmation in proof of service of the notice upon the owner of the land or of the posting or publication of the notice as provided in this Part shall be included among the deeds and other documents to which reference is made in section 7 of the Registration of Deeds Act and the copy of the notice with the affidavit or certificate attached shall, notwithstanding a provision of that Act to the contrary, be registered in accordance with that Act without proof for registration and without payment of fees.

(2) The provisions of the Registration of Deeds Act relating to proof for registration of an instrument as defined in paragraph 2(a) of that Act shall apply to proof of service or of posting or publication of the notice as if the person serving, posting or publishing the notice were the signing witness to the execution of the instrument.

(3) The registration of the copy of the notice with the attached affidavit or certificate has the same effect as the registration under the Registration of Deeds Act of an instrument as defined in paragraph 2(a) of that Act and for the purposes of section 10 of that Act the person in whom the title is vested under section 58 of this Act is considered to be a purchaser for valuable consideration.

(4) Entry of

(a) the name of the person

(i) upon whom notice under this Part is served,

(ii) upon whose land notice is posted and for which notice is published, and

(iii) in whom title is vested under section 58; and

(b) a description of the document as a notice of expropriation; and

(c) the date of the service, posting or publication of the notice under this Part, in the registry established under the Registration of Deeds Act constitutes compliance with that Act for the purpose of the requirements for the registration of an instrument as defined in paragraph 2(a) of that Act but, where the name of the owner of the land is not known, an entry to that effect in the registry shall be made and constitutes compliance with that Act for that purpose.

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#### Compensation to be paid

61. (1) The minister, a council or a regional authority shall pay compensation to the owner of land expropriated and to the owner of land injuriously affected by the expropriation.

(2) Compensation under subsection (1) shall not be paid

(a) with respect to the expropriation of a highway, road, street or other way which immediately before the expropriation was dedicated to the use of the public or vested in a municipal authority;

(b) to a municipality in respect of water pipes, hydrants or sewers erected or placed on, in, over or under land;

(c) with respect to a building where, under a law of the province, the building is declared to be uninhabitable and permission to repair it is refused or the building is ordered to be condemned or demolished; or

(d) with respect to land that is designated under regulations made under this Act for streets, parks, playgrounds or other public purposes in an approved subdivision.

(3) Where an assessment authorized by law has been levied on land that has been expropriated but has not been paid and the minister, council or regional authority has notice of the assessment before compensation has been paid, the amount of the assessment shall be deducted from the compensation payable and be paid by the minister, council or regional authority to the body levying the assessment and the receipt of that body is a valid discharge for the amount of the compensation paid in satisfaction of the assessment.

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#### Information supporting claims to be submitted to minister

62. (1) Where a notice of expropriation has been served or posted and published under this Part, the person on whom it is served, the owner and other persons who are or may be entitled to claim compensation with respect to the expropriation or injurious affection resulting from the expropriation shall submit to the minister, council or regional authority the

(a) particulars of his or her estate and interest in the land expropriated or injuriously affected and charges, liens or other encumbrances to which the land is subject;

(b) title deeds, plans and other documents in his or her possession or available to the person relating to the title to the land; and

(c) other information that the minister, council or regional authority requests in connection with the land, the title to the land and his or her interest in it or in connection with the claim.

(2) Where a claimant fails to provide the minister, council or regional authority with satisfactory proof of title, the minister, council or regional authority shall notify the claimant in writing that satisfactory proof of title has not been provided and the notification shall be served personally or by registered mail on the claimant not more than 30 days after the claimant files a claim with the minister, council or regional authority.

(3) Nothing contained in this Part shall be considered to require the minister or a council or regional authority to make or arrange for the payment of compensation or the transfer of another matter provided by way of compensation under this Part until the time that the claimant has

established a title or claim to the reasonable satisfaction of the council, regional authority or minister or in accordance with this Part.

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Board of assessors to fix compensation

63. Where

(a) the minister, a council or regional authority and an owner of land expropriated or injuriously affected by the expropriation cannot agree on the amount and conditions of compensation to be paid for the expropriated land or injurious affection;

(b) the owner of the land cannot be found;

(c) there is doubt as to the ownership of the land; or

(d) for another reason the minister, council or regional authority considers it expedient, the amount of compensation to be paid shall be fixed by a board.

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Board

64. (1) A board of assessors may be appointed to fix compensation and the board shall consist of a chairperson and 2 other assessors.

(2) The minister, council or regional authority carrying out the expropriation shall appoint one assessor.

(3) The owner of the land that has been expropriated may request, in writing, that the minister, council or regional authority make the appointment required under subsection (2) and where, 15 days after that request has been received by the minister, council or regional authority that appointment has not been made, the owner may apply to the court to have that assessor appointed and the court may make the requested appointment.

(4) The minister, council or regional authority shall, by written notice, inform the owner of land that has been expropriated or injuriously affected that a board is to be appointed and the owner shall within 30 clear days after the date of the notice appoint one assessor.

(5) Where the owner of the land that has been expropriated or injuriously affected cannot be found or the minister, council or regional authority does not know who the owner is, the minister, council or regional authority shall appoint an assessor in addition to the one appointed under subsection (2).

(6) Where the owner of the land that has been expropriated or injuriously affected refuses or neglects to appoint an assessor within the time required under subsection (4) or is incapable of appointing an assessor, the minister, council or regional authority may apply to the court, and the court, after notice to the owner that it considers appropriate, or without notice to the owner where it is desirable to dispense with the notice, shall appoint one assessor, and the assessor appointed under subsection (2) and the assessor appointed under subsection (4) or (5) or this subsection shall agree upon and appoint a third assessor who shall be the chairperson of the board.

(7) Where the minister, council or regional authority or the 2 assessors referred to in subsection (6) fail to appoint an assessor who is to be the chairperson of the board after 15 clear days' notice in writing from the minister, council or regional authority or the owner to do so, the court shall, upon application of the minister, council, regional authority or the owner, appoint an assessor.

(8) Where parcels of land belonging to different owners in a locality are expropriated or injuriously affected and the minister, council or regional authority and an owner cannot agree upon the amount of compensation to be paid, the amount to be paid an owner with whom agreement cannot be reached shall be fixed by a board and for this purpose "owner" in subsections (3), (4), (5), (6) (7) and (11) means the majority of the owners with whom agreement cannot be reached.

(9) In subsection (8), "locality" means an area defined as a locality by the minister, a council or a regional authority.

(10) An assessor shall, before entering upon the duties of office, take and sign an oath or affirmation of office in the required form and before a person authorized to administer oaths or affirmations.

(11) Where an assessor, including an assessor who is chairperson of a board, refuses to act, dies, resigns, or is unable to carry out his or her duties under this Act, the minister, council or regional authority shall revoke the appointment of the assessor, and

(a) where the assessor concerned is the assessor appointed under subsection (2) or (4), the minister, council or regional authority shall appoint another assessor;

(b) where the assessor concerned is the assessor appointed by the owner under subsection (4), the court under subsection (3) or the minister, council or regional authority shall, in writing, notify the owner that he or she should appoint another assessor and the owner shall within 30 days after the date of the notice appoint another assessor and where the owner refuses or neglects to appoint the assessor within that time or is incapable of appointing the assessor, subsection (6) shall, with the necessary changes, apply, except that, where the assessor who is to be chairperson has already been appointed under that subsection, the last-mentioned assessor is to be chairperson; and

(c) where the assessor is the assessor who was appointed as chairperson, the provisions of subsections (6) and (7) respecting the appointment of the assessor who is to be chairperson shall, with the necessary changes, apply.

(12) The revocation of the appointment of an assessor under subsection (11) shall not impair the right of the remaining assessors to act and, where an assessor is appointed under subsection (11), the assessor shall proceed as if he or she had been a member of the originally appointed board.

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## Fees

65. (1) The minister, council or regional authority shall fix the fees to be paid to the assessors of each board other than those whose salaries are paid out of the public funds of the province.

(2) The minister, council or regional authority may enter into an agreement with the assessors of a board for the payment to them of a fixed amount and the execution of the agreement shall fully discharge claims by the assessors for remuneration under this Act.

(3) Witnesses summoned to give evidence before a board are entitled to fees on the scale fixed for payment to witnesses in the court.

(4) Witness fees shall be included in the costs payable and shall be paid by the party bearing the costs and expenses of the hearing before the board.

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## Notice of hearing

66. A board shall give notice of its hearings to those parties known to the board who claim an interest or who in the opinion of the board may have an interest in the land which was expropriated and shall give to those parties a reasonable opportunity to offer evidence at the hearings.

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## Power of Public Inquiries Act

67. A board and each assessor of a board has, for the purpose of hearings held under this Act, the powers of a commissioner under the Public Inquiries Act .

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#### Recording of evidence

68. (1) The proceedings of a board and the evidence taken shall be recorded.

(2) The fees and expenses of recording the proceedings and evidence under subsection (1) shall be considered to be a cost of the board.

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#### Questions of law and fact

69. (1) A board may, in addition to assessing the value of land expropriated, try questions of law and fact that it considers necessary to try in order to

(a) fix the amount of compensation to be paid in respect of the land which was expropriated or injuriously affected by the expropriation; and

(b) determine the persons to whom compensation should be paid and the amount that should be paid to each of them.

(2) A board may state an award for compensation in whole or in part and may state the award in the form of a special case for the opinion of the court.

(3) A board may, during its proceedings, and shall, where directed by the court, state in the form of a special case for the opinion of the court a question of law arising in the course of the proceedings.

(4) A party to proceedings before a board may apply to the court for an order directing that a question of law arising in the course of those proceedings be stated in the form of a special case.

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#### Assessing compensation

70. (1) In fixing the amount of compensation to be paid under this Act a board shall act in accordance with the following rules:

(a) the compensation shall be an amount based on the fair market value of the land and on existing use value at the time of the start of expropriation proceedings and an account shall not be taken of the compulsory acquisition of the land, and disturbance of the owner or occupier, or other injurious affection;

(b) the fair market value of the land shall be taken to be the amount which the land if sold in the open market by a willing seller might be expected to realize but the board may consider returns and assessments of capital value for taxation made or acquiesced by the owner of the land;

(c) the special suitability or adaptability of the land for a purpose shall not be taken into account if that purpose is one to which the land could be applied only in pursuance of statutory powers or one for which there is not a market apart from the special needs of a particular purchaser or the requirements for which the land is expropriated, but an offer made in good faith for the purchase of the land made before the start of the expropriation proceedings which may be brought to the notice of the board shall be taken into account;

(d) where the value of the land is increased because of the use of it or of a premises on the land in a manner which could be restrained by a court or is contrary to law or which because of overcrowding or for another reason is detrimental to the health of the residents of the premises or to the health of the public, the amount of that increase shall not be taken into account;

(e) where a house or premises are in such a condition that they are a nuisance or are in a state of defective sanitation or are not in reasonably good repair, the value of the house or premises shall be an amount which would be estimated as the value if the nuisance were abated or if the house or premises were put into a sanitary condition or into reasonably good repair, after deducting the estimated expense of abating the nuisance or putting the house or premises into that condition and repair;

(f) where a house or premises are in the opinion of the board unfit and not reasonably capable of being made fit for human habitation, compensation shall not be paid in respect of them;

(g) an advantage which the owner may derive or be likely to derive directly or indirectly from the contemplated work and operations for which the land is expropriated shall be taken into account in reduction of the amount of the compensation;

(h) where land is, and but for the expropriation would continue to be, devoted to a purpose of a nature that there is no general demand or market for the land for that purpose, the amount of the compensation may, where the board is satisfied that reinstatement in some other place is intended in good faith, be assessed on the basis of the reasonable cost of equivalent reinstatement; and

(i) compensation shall not be allowed in respect of

(i) costs, expenses, loss, damages or inconvenience incurred or sustained in investigating a plan, including a plan under Part IV, or another scheme, plan or regulation made under this or another Act, or expropriation proceeding taken under this Act or anything incidental to them or in respect of anything done under this Act or under a regulation, rule, by-law or order or in respect of a delay in proceeding with or by an amendment, revocation or abandonment of them, or

(ii) an actual or anticipated loss, damage or inconvenience suffered by a person in respect of the development of land or the erection of a building or structure or the doing of anything which is not developed, erected or done in accordance with a municipal plan, joint municipal plan, local area plan, regional plan, or other scheme or plan, or a regulation, rule, by-law, proclamation or order relating to it and made under this Act.

(2) Where, in the opinion of the board, it is appropriate to make an award with respect to the expropriation of land for the disturbance to the owner or occupier or for other injurious affection that is properly the subject of compensation, the board may, in addition to the amount awarded in accordance with subsection (1), make an award of a sum that it may fix.

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## Awards

71. Where the injury to land affected by the expropriation of other land may be removed wholly or partly by

(a) an alteration in or addition to the work done or to be done on the land expropriated; or

(b) the abandonment of a part of the land expropriated; or

(c) the grant to the owner of the injuriously affected land of other land or of an easement, and if the minister, council or regional authority, before an award is made, undertakes to make the alteration or addition or to abandon part of the land expropriated or to grant other land or an easement to that owner, the board shall take that undertaking into account in making the award with respect to the injurious affection and the owner is entitled to have the alteration or addition made or the part of the land abandoned or other land or an easement granted to him or her.

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## Apportionment of award

72. (1) Where land subject to a lease or sublease for a term of not less than one year is expropriated the board shall apportion the compensation fixed in respect of the land between the lessor and lessee and sublessee or their assigns in the manner that it considers appropriate.

(2) Where part only of the land referred to in subsection (1) is expropriated, the board shall in addition apportion the rent payable with respect to the land between the expropriated land and the residue of the land.

(3) After the apportionment of the rent the lessee, sublessee or their assigns shall, as to future accruing rent, be liable only for so much of the rent as is apportioned with respect to the land not expropriated and as against the lessee and sublessee or their assigns the lessor has the same

rights and remedies for the recovery of the portion of rent as previously to the apportionment he or she had for the recovery of the whole rent reserved by the lease.

(4) The covenants, conditions and agreements of the lease, except as to the amount of rent to be paid, shall remain in force with regard to that part of the land which is not expropriated in the same manner as they would have done if that part only of the land had been included in the lease or sublease.

2000 cU-8 s72

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#### Exchange of land subject to money payment

73. (1) Where land has been expropriated and the board is of the opinion that the person from whom the land was expropriated may be properly indemnified by having a portion of land assigned to him or her from land of the municipality, regional authority or the Crown, the board may, with the agreement of the council or minister, mark off as much of the adjoining land of the municipality, region or Crown as the board thinks sufficient to replace the expropriated land.

(2) The council, regional authority or minister shall convey the land marked off under subsection (1) to the person whose land has been expropriated and the title to that land when conveyed by the council, regional authority or minister vests in that person and is instead of an award for compensation.

2000 cU-8 s73

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#### Return of expropriated land

74. (1) Where, before compensation has been actually paid, or, where a board has been appointed, before an award is made,

(a) a parcel of land taken for the purposes of this Act; or

(b) a part of the parcel is found to be unnecessary for the purpose for which it was expropriated; or

(c) it is found that only a more limited estate or interest in the land or a part of it is required,

the council, regional authority or minister may by a written notice served or posted in the manner provided in section 52 declare that the land or the part of it referred to in the notice is not required and is abandoned by the person in whom the title vested under section 58 or that it is intended to retain only the limited estate or interest in the land or a part of it that is mentioned in the notice.

(2) Upon the written notice referred to in subsection (1) being registered in the same manner as is provided in section 60 for the registration of a notice of expropriation, the land declared to be abandoned shall vest again in the person from whom it was taken or in those entitled to claim under that person and sections 58 and 60 apply to the notice as if it were a notice of expropriation.

(3) Where a limited estate or interest in the land or a part of it is being retained by the person in whom the title vested under section 58, the land shall vest again in accordance with subsection (2) subject to the estate or interest that is retained.

(4) The event of the abandonment again vesting the land in the person from whom it was expropriated shall be taken into account in addition to the other circumstances of the case in estimating or assessing the amount to be paid to a person claiming compensation for the land expropriated and not abandoned.

2000 cU-8 s74

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#### Award of board to be written

75. (1) The board shall make its award in writing not more than 60 days after it has been appointed, unless the minister, council or regional authority, with the agreement of the parties to the arbitration, extends that period, and shall deliver a copy of it immediately to the parties to the arbitration.

(2) The board shall include in the award, its findings on questions of law and fact that it has tried and the amount of compensation that it awards.

(3) A decision of the board shall be made by a majority of the assessors on that board and that decision is final.

(4) The board may correct in an award a clerical mistake or error arising from an accidental slip or omission.

(5) The minister, council or regional authority or an owner of land which has been expropriated may, not more than 30 days after the date of an award, give to the other party notice of an appeal to the court against the findings of the board upon questions of law or fact in connection with the expropriation or upon the question of the amount of compensation awarded by the board.

(6) Costs in an appeal under subsection (5) may be awarded by the court for or against the minister, council, regional authority or owner of land that has been expropriated.

2000 cU-8 s75

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#### Award not invalidated

76. (1) An award is not invalid because of a want of form or other technical objection where this Act has been substantially complied with and where the award states clearly the compensation awarded and the lands in respect of which it has been awarded.

(2) The board may name in the award the person to whom compensation is to be paid but the lands in respect of which the award has been made shall be clearly indicated.

2000 cU-8 s76

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#### Board may award costs

77. (1) The board may award costs with respect to a hearing before it under this Act but the costs shall be taxed by a taxing officer of the Trial Division in accordance with the scale of costs in the Rules of the Supreme Court, 1986 .

(2) Where the compensation awarded by a board is greater than the sum which the minister, council or regional authority offered in writing for the land that was expropriated or injuriously affected, the minister, council or regional authority shall pay the costs and expenses of the hearing before the board and the fees of the board provided for in this Part but, where the compensation awarded does not exceed the sum offered, the person who refused the offer shall pay those costs, expenses and fees, and where, in respect of land expropriated or injuriously affected, no sum was offered before expropriation, those costs, expenses and fees shall be paid by the party designated by the board.

2000 cU-8 s77

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#### Time of payment

78. The minister, council or regional authority shall pay the compensation awarded by a board not more than 6 months after the date on which the award was made and if the compensation is not paid by that date it shall bear interest from that date at the rate established for post judgment interest under the Judgment Interest Act until it is paid.

2000 cU-8 s78

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## Claims upon compensation

79. The compensation agreed upon or awarded with respect to land expropriated or injuriously affected by the exercise of powers conferred by this Part shall stand in the stead of the land expropriated or injuriously affected and a claim to or encumbrance in it shall, as against the minister, council or regional authority, become a claim to or upon the compensation and shall no longer affect the land expropriated or injuriously affected.

2000 cU-8 s79

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## Payments

80. (1) Where, with respect to land that has been expropriated or injuriously affected,

- (a) the owner of that land
  - (i) refuses to accept the compensation awarded in respect of the land,
  - (ii) neglects or fails to make out a title to the land or the interest claimed by him or her to the reasonable satisfaction of the minister, council or regional authority,
  - (iii) refuses to execute a document or receipt of indemnity with respect to the land as required by the minister, council or regional authority,
  - (iv) is absent from the province or cannot, after inquiry by the minister, council or regional authority be found, or
  - (v) is a person under a disability;
- (b) another person to whom compensation is payable under this Act
  - (i) refuses to accept the awarded compensation,
  - (ii) is a person under a disability,
  - (iii) is a partial or qualified owner, or
  - (iv) is not entitled to sell or convey the land; or
- (c) the Attorney General certifies that in his or her opinion there are or are likely to be conflicting claims with respect to the compensation or that it is advisable to pay the compensation into court,

the minister, council or regional authority may arrange for the payment of the compensation payable with respect to the land or an interest in it into the court, subject to the control and disposition of the court in accordance with this Act.

(2) From the date of payment into court, the minister, council or regional authority is not liable to pay interest under this Act or otherwise.

(3) Upon payment into court, the minister, council or regional authority shall be provided a receipt for the compensation and that receipt constitutes a full and valid discharge of the minister, council or regional authority with respect to liability to make or pay compensation for the land.

2013 c16 s25

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## Notification of claimants

81. Where money is paid into the court under this Act the minister, council or regional authority shall

- (a) notify those persons referred to in section 80 to whom notice can be given;
- (b) file with the court the name and address of persons who to the knowledge of the minister, council or regional authority claim the compensation or a part of it, together with information in the possession of the minister, council or regional authority with respect to the expropriation and claims for payment of compensation on account of the expropriation or injurious affectation resulting from it; and
- (c) within 10 days after payment into court publish a notice in one or more newspapers published and circulated in the area where land is located stating the place and description of the land and that the land has been expropriated under this Act and calling upon persons who had an

interest in or claim against the land or who have been injuriously affected by the expropriation to file their claims to compensation with the court.

2000 cU-8 s81; 2013 c16 s25

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Names and addresses

82. The names and addresses of persons claiming compensation shall be provided at the court to a person upon request.

2013 c16 s25

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Rep. by 2013 c16 s25

83. [Rep. by 2013 c16 s25]

2013 c16 s25

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Claimant may apply to court

84. Where there is a claim to compensation to which this Act applies or a portion of compensation paid into the court under this Act, a person claiming the compensation may apply to a judge of the court for an order directing that the compensation or part of it be paid to him or her.

2013 c16 s25

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Application to court

85. (1) An application to a judge under section 84 shall state that to the best of the claimant's belief he or she was, immediately before the expropriation, the owner of the land or interest with respect to which a claim is made.

(2) The application shall set out the facts on which the belief is founded and where the claimant is

(a) not aware of the existence of a claim adverse to or inconsistent with his or her own, the claimant shall state that, or

(b) aware of an adverse claim, the claimant shall set out all adverse claims known to the claimant and shall state that he or she is not aware of others except those set out, and the application shall be verified by affidavit, but with leave of the judge, that affidavit may be dispensed with or may be made by some person other than the claimant or may be made partly by one person and partly by another.

2000 cU-8 s85

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Notice of application to court

86. (1) Before proceedings are taken under section 85 the claimant shall post a notice of an intention to make an application under that section in the registry of the court for 3 days, and the claimant shall afterward give notice of the application in accordance with the Judicature Act and the Rules of the Supreme Court, 1986 to a claimant whose name has been filed with the court and to a person who to his or her knowledge claims the compensation or a part of it.

(2) Where it appears to the judge of the court that there is a person who may have a claim adverse to or inconsistent with that of the claimant, the claimant shall serve the notice on that person by personal or substituted service as the judge considers necessary or desirable.

(3) During the proceedings the judge may require that a further publication be made or a further notice be served upon a person whom the judge considers necessary.

2000 cU-8 s86; 2013 c16 s25

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#### Adverse claims

87. A person having an adverse claim or a claim not recognized in the application may, before the hearing of the subject matter of the application, file with the court a statement of the particulars of the claim verified by affidavit and serve a copy of it on the claimant, his or her solicitor or agent.

2000 cU-8 s87; 2013 c16 s25

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#### Security for costs

88. (1) A judge of the court may during the proceedings order security for costs to be given by a person making a claim.

(2) Costs may be ordered either as between party and party or as between solicitor and client.

2000 cU-8 s88

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#### Adjudication

89. A claim made under section 87 may be heard and adjudicated upon and the judge may make the order for the distribution, payment or investment of the compensation and for securing the rights of interested parties or another order that he or she considers appropriate.

2000 cU-8 s89

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#### Compensation as directed

90. In cases referred to in section 89, the compensation shall be disposed of by the court as directed by the judge.

2013 c16 s25

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#### Application of Judicature Act

91. The practice and procedure under the Judicature Act and the Rules of the Supreme Court 1986 apply to proceedings under sections 85 to 90.

2000 cU-8 s91

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#### Claims barred

92. Where money paid into court under section 80 has not been paid out to a person 3 years or more after that payment into court was made, and there have been no applications for a compensation payment filed with the court, a claim to that money is barred.

2000 cU-8 s92

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#### Compensation to be returned

93. (1) Where a claim to compensation is barred under section 92, the compensation and interest accrued on it become the property of the minister, council or regional authority.

(2) The compensation and interest shall be returned to the minister, council or regional authority that paid the compensation into court.

2013 c16 s25

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## Guardian

94. (1) Where a person is a person under a disability, the guardian of the estate of that person may claim compensation, give the consent, and be a party to proceedings that the person may have undertaken if he or she had not been under a disability and the guardian shall otherwise represent that person for the purposes of this Part.

(2) Where it appears that a person under a disability may be interested in opposing a claim made under this Part, the court may appoint a guardian to represent that person and that person is bound by the adjudication in the matter in respect of which the application is made.

(3) The judge may order that the costs of the guardian appointed under subsection (2) be paid by the claimant.

(4) A guardian referred to in this section may receive notices, make nominations, receive payment of compensation, give effectual receipts and discharges and otherwise, for the purposes of this Part, act on behalf of the person for whom he or she has been appointed guardian.

2000 cU-8 s94

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## Disposal of land

95. The minister or a council or regional authority, with the approval of the minister, may sell, lease or otherwise dispose of land or an interest in it expropriated and not abandoned upon those terms and conditions and for the consideration that the minister, council or regional authority thinks appropriate.

2000 cU-8 s95

## PART X

### PURCHASE NOTICE

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## Purchase notice

96. (1) A council, regional authority or authorized administrator acting in accordance with a scheme or a plan, including a plan made under Part IV, may

- (a) refuse permission to develop land;
- (b) grant permission to develop land subject to conditions; or
- (c) without conditions, grant permission to develop land.

(2) The owner of land may, not later than 60 days after the date on which he or she was notified of a refusal or grant under paragraphs (1)(a) or (b), serve on the council, regional authority or authorized administrator that made the decision, a purchase notice requiring the purchase of his or her interest in land in accordance with this section provided that

(a) where permission to develop the land was refused under paragraph (1)(a), that the land has become incapable of reasonably beneficial use;

(b) where, under paragraph (1)(b), permission to develop the land was granted subject to conditions, those conditions prohibit the reasonably beneficial use of the land; and

(c) the land cannot be made capable of reasonably beneficial use by another development for which permission has been or would be granted under the scheme or plan.

(3) Where a purchase notice is served on a council, regional authority or authorized administrator under subsection (2), a copy of that notice shall immediately be delivered to the minister.

(4) Upon receipt of a copy of a purchase notice by the minister under this section the minister may, in writing

(a) where satisfied that the conditions specified in subsection (2) are fulfilled, confirm the purchase notice;

(b) grant permission for the development that was refused under paragraph (1)(a);



(c) where permission for the development was granted subject to conditions, revoke or amend the conditions so that the land may be rendered capable of reasonably beneficial use by the carrying out of development; or

(d) reject the purchase notice.

(5) Notwithstanding subsection (4), where the minister is of the opinion that the land or a part of it could be made capable of reasonably beneficial use within a reasonable time by another development for which permission should be granted, he or she may, in writing, direct that that other development be permitted provided that the owner of the land has made an application to the appropriate council, regional authority or authorized administrator respecting that development.

(6) Where the minister is of the opinion that it would be appropriate for any reason for a portion only of the land described in the purchase notice to be subject to that notice, the minister may make a decision under subsection (4) with respect to that portion only and, in writing, inform the owner of the land of that decision and this section shall not apply to the excluded land.

(7) Where the minister confirms the notice under paragraph (4)(a), the title to the land or portion of land shall, in accordance with section 99, be vested in the council, regional authority, authorized administrator or the Crown as directed in the minister's confirmation and if compensation cannot be agreed upon between the parties, compensation shall be awarded and made as if the land were expropriated under Part IX.

(8) Where the minister rejects the notice under paragraph (4)(d) the title to the land remains vested in the owner who applied under subsection (2) and compensation shall not be awarded.

(9) Where it appears to the minister that it is expedient to do so, having regard to the probable ultimate use of the land, the minister may, if he or she confirms a purchase notice served under subsection (2), modify the purchase notice, either in relation to the whole or in relation to a part of the land affected by the notice by substituting another council, regional authority, authorized administrator or Crown in right of the province for that served with the purchase notice and subsections (1) to (8) shall apply to that notice substitution.

2000 cU-8 s96

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#### Requirements respecting purchase notice

97. (1) Notwithstanding paragraph 96(4)(a), the minister shall not confirm a purchase notice served under subsection 96(2) unless satisfied that

(a) the land is particularly suitable and ripe for a development that may be approved under the plan applicable to that land;

(b) solely because of the scheme or plan referred to in subsection 96(1), the land cannot be used for development; and

(c) the land cannot be used for other development under the scheme or plan referred to in subsection 96(1).

(2) Before taking an action under subsection 96(4) the minister shall give notice of his or her proposed confirmation or other action to

(a) the person who served the purchase notice;

(b) the council, regional authority or authorized administrator on whom the purchase notice was served; and

(c) a council, regional authority or authorized administrator that the minister proposes, under subsection 96(9), to substitute for that served with the purchase notice.

(3) Not fewer than 28 days after the date of the service of a notice of proposed confirmation or other action referred to in subsection (2), the minister shall, before confirming the purchase notice or taking another action under this section in respect of it, give to the person, council, regional authority or authorized administrator an opportunity of appearing before and being heard by a person designated or appointed by the minister for the purpose.

(4) Where, upon the expiration of 6 months from the date on which a copy of the purchase notice is delivered to the minister under subsection 96(3) the minister has not taken an action in respect of it under subsection 96(4), the purchase notice shall be considered to be confirmed and all of the results shall follow as if the notice were confirmed under paragraph 96(4)(a).

2000 cU-8 s97

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#### Development prohibited

98. Notwithstanding sections 96 and 97, where development in an area is prohibited under this or another Act or law of the province or of Canada for the purpose of protecting a watershed area or for another environmental reason sections 96 and 97 shall not apply to that land.

2000 cU-8 s98

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#### Vesting of title

99. (1) Where a purchase notice is confirmed under paragraph 96(4)(a) or subsection 97(4), the owner of the land to which the confirmation applies shall provide a survey of that land carried out by a person authorized to do land surveys under the laws of the province to the council, regional authority or authorized administrator served under subsections 96(2) or 97(2) and to the minister or other council, regional authority, authorized administrator or the Crown substituted by the minister under subsection 96(9).

(2) Ten days after a survey has been provided under subsection (1), the title to the land to which the confirmation applies, vests in the council, regional authority or in another person whom the minister may designate in the confirmation of the purchase notice.

2000 cU-8 s99

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#### Register of purchase notice

100. The minister, a council or a regional authority shall establish and maintain a register containing the particulars of purchase notices under this Part and of notices and awards that have been served or delivered in connection with those notices.

2000 cU-8 s100

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#### Registration of purchase notices

101. (1) A copy of a confirmed purchase notice made under paragraph 96(4)(a) or an affidavit of the minister stating that subsection 97(4) applies and that the purchase notice is confirmed shall be included among the deeds and other documents to which reference is made in section 7 of the Registration of Deeds Act and the copy of the notice or affidavit shall, notwithstanding a provision of that Act to the contrary, be registered in accordance with that Act without proof for registration and without payment of fees.

(2) Registration under subsection (1) has the same effect as the registration under the Registration of Deeds Act of an instrument as defined in paragraph 2(a) of that Act and for the purposes of section 10 of that Act the person in whom the title is vested under section 99 of this Act is considered to be a purchaser for valuable consideration.

(3) Entry of

(a) the name of the person in whom title is vested under section 99; and

(b) a description of the document as a purchase notice; and

(c) the date of the service, posting or publication of the notice under this Part,

in the registry established under the Registration of Deeds Act constitutes compliance with that Act for the purpose of the requirements for the registration of an instrument as defined in paragraph 2(a) of that Act.

2000 cU-8 s101

## PART XI

### ENFORCEMENT

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#### Order

102. (1) Where, contrary to a plan or development regulations, a person has undertaken or commenced a building or other development, the council, regional authority or authorized administrator responsible for that plan or those regulations or the minister where he or she considers it necessary, may order that the person pull down, remove, stop construction fill in or destroy that building or development and may order that the person restore the site or area to its original state.

(2) A person ordered to carry out an action under subsection (1) shall be served with that order and shall comply with the order at the person's own expense.

(3) An order made under this section continues in force until revoked by the council, regional authority, authorized administrator, or minister that made the order.

(4) A council, regional authority, authorized administrator or the minister may, in an order made under this section, specify a time within which there shall be compliance with the order.

(5) Where a person to whom an order is directed under this section does not comply with the order or a part of it, the council, regional authority, authorized administrator or minister may take the action that it considers necessary to carry out the order and any costs, expenses or charges incurred by the council, regional authority, authorized administrator or minister in carrying out the order are recoverable against the person against whom the order was made as a debt owed to the council, regional authority, authorized administrator or the Crown.

2000 cU-8 s102

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#### Enforcement of planning

103. (1) Where, after making the inquiries that he or she considers sufficient, the minister is satisfied that

(a) a council, regional authority, authorized administrator or other person is not completing or conforming to, enforcing or administering the provisions of a municipal or regional plan, local area plan, protected area plan, protected road zoning plan or regulations made under this Act; or

(b) it is in the public interest that a municipal or regional plan, local area plan, protected area plan, protected road zoning plan or regulations that may be made under this Act be prepared or completed in accordance with this Act,

the minister may order the appropriate council, regional authority, authorized administrator or other person to conform to, enforce, administer, prepare, complete, adopt or enact a municipal plan, regional plan, local area plan, protected area plan, protected road zoning plan or regulations within the time that he or she may state in the order.

(2) Where a council, regional authority or authorized administrator or other person does not carry out an order made under this section, the minister, for the purpose of carrying out the order, may exercise for and in the name of that council, regional authority, authorized administrator or person the powers conferred upon them under this Act.

2000 cU-8 s103

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#### Injunctive and other relief

104. The minister, a council, regional authority or authorized administrator may take an action by way of prosecution or other legal proceedings including but not limited to an application for injunctive or declaratory relief which the minister, council, regional authority or authorized administrator considers necessary to enforce this Act or a plan, order or regulations made under this Act.

2000 cU-8 s104

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#### Right of entry

105. A council, regional authority, authorized administrator and the minister, or a person designated by them may enter upon a property to make an inspection or survey for the purpose of this Act.

2000 cU-8 s105

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#### Offence and penalty

106. (1) A person who contravenes this Act or a regulation, order, municipal, regional, local area, protected area or other plan made under this Act, who interferes with or obstructs a person in the discharge of duties under the preceding or who tears down, removes or damages a notice posted or published under this Act is guilty of an offence and liable on summary conviction

(a) for a first offence, to a fine of not less than \$500 and not more than \$1,000 and in default of payment to imprisonment for a period not exceeding 3 months or to both the fine and imprisonment; and

(b) for a subsequent offence, to a fine of not less than \$2,000 and not more than \$5,000 or to a period of imprisonment not exceeding 6 months or to both the fine and imprisonment.

(2) The conviction of a person for failing to comply with a requirement or obligation referred to in subsection (1) shall not operate as a bar to further prosecution under this Act for the continued failure on the part of the person to comply.

(3) In addition to the penalty prescribed under subsection (1) a Provincial Court judge who convicts a person of an offence referred to in that subsection may order that person to remove or restore to its former state a building, structure or thing erected or placed on land or land dealt with contrary to this Act or regulations made under this Act and, if that person does not carry out that order within the time prescribed by the Provincial Court judge, he or she may designate a person to carry out the order and the cost of carrying out the order shall be borne by and may be recovered as a civil debt from the person convicted.

2000 cU-8 s106

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#### Application of fines

106.1 (1) A fine recovered under this Act shall be forwarded by the court imposing the fine to the council to which it relates.

(2) Where a fine imposed for a violation of this Act or a regulation or by-law made under it is for a ticketable offence, the council to which it relates shall pay to the province an amount that the Minister of Justice may establish for every ticket processed by the province.

2012 c10 s2

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#### Service

107. (1) Unless otherwise stated in this Act, a notice, order or other document required to be given, delivered or served under this Act is sufficiently given, delivered or served where delivered

personally or sent by registered mail addressed to the person at the latest known address of that person.

(2) Where a person to whom a notice, order or other document is to be given, delivered or served as described in subsection (1) is a corporation, it shall be considered sufficiently given, delivered or served where delivered personally to a director or chief executive officer of that corporation.

(3) Where an order that can be made under this Act cannot be given, delivered or served under either subsection (1) or (2), that order is considered given, delivered or served if it is posted in a conspicuous place on the property to which the order relates.

2000 cU-8 s107

## PART XII

### NON-CONFORMING USE

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#### Non-conforming use

108. (1) Notwithstanding a plan, scheme or regulations made under this Act, the minister, a council or regional authority shall, in accordance with regulations made under this Act, allow a development or use of land to continue in a manner that does not conform with a regulation, scheme, or plan that applies to that land provided that the non-conforming use legally existed before the registration under section 24 of the plan, scheme or regulations made with respect to that kind of development or use.

(2) Notwithstanding subsection (1), a right to resume a discontinued non-conforming use of land shall not exceed 6 months after that discontinuance unless otherwise provided by regulation under this Act.

(3) A building, structure or development that does not conform to a scheme, plan or regulations made under this Act that is allowed to continue under subsection (1)

(a) shall not be internally or externally varied, extended or expanded unless otherwise approved by the minister or appropriate council, regional authority or authorized administrator;

(b) shall not be structurally modified except as required for the safety of the building, structure or development;

(c) shall not be reconstructed or repaired for use in the same non-conforming manner where 50% or more of the value of that building, structure or development has been destroyed;

(d) may have the existing use for that building, structure or development varied by the appropriate council, regional authority or authorized administrator to a use that is, in their opinion more compatible with a plan and regulations applicable to it;

(e) may have the existing building extended by the appropriate council, regional authority or authorized administrator where, in its opinion that extension is not more than 50% of the existing building;

(f) where the non-conformance is with respect to the standards included in development regulations, shall not be expanded if the expansion would increase the non-conformity; and

(g) where the building or structure is primarily zoned and used for residential purposes, may, in accordance with the appropriate plan and regulations, be repaired or rebuilt where 50% or more of the value of that building or structure is destroyed.

2000 cU-8 s108

## PART XIII

### MISCELLANEOUS

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#### Delegation

109. (1) The minister may delegate his or her duties, powers and functions under this Act to an employee of the department.

(2) A council or regional authority may appoint an employee of that council or authority to approve or reject applications, as designated by the council or regional authority, to develop land in accordance with the appropriate plan and regulations and that employee may outline the conditions applicable to that development.

(3) An employee of a council or regional authority may issue an order under section 102.

(4) An order made by an employee referred to in subsection (3) shall be confirmed by a majority vote of the members of the council or regional authority present at the next meeting of that council or regional authority after the order is made and if the order is not confirmed in this manner, it shall be considered to be cancelled.

2000 cU-8 s109; 2011 c17 s3

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#### Fees and forms

110. The minister may set fees and establish forms for the purpose and administration of this Act.

2000 cU-8 s110

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#### Powers and conflict

111. (1) The powers conferred upon a council or regional authority under this Act shall be in addition to powers conferred upon them under another Act.

(2) Where this Act conflicts with another Act, except for the Family Homes Expropriation Act, this Act shall prevail.

2000 cU-8 s111

#### PART XIV

#### TRANSITIONAL AND REPEAL

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#### Transitional

112. A plan, scheme or regulation made under the Urban and Rural Planning Act in force immediately before the coming into force of this Act shall, upon the coming into force of this Act, be considered to have been made under this Act.

2000 cU-8 s112

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#### SN1999 cM-24 Amdt.

113. Sections 222 to 246 of the Municipalities Act, 1999 are repealed and the following substituted:

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#### Expropriation

222. (1) A council may, in accordance with Part IX of the Urban and Rural Planning Act, 2000, expropriate land, property or an interest in land or property where

(a) the person who owns the land, property or interest refuses to accept the sum offered in writing by the council;

(b) the person who owns the land, property or interest is incapable of conveying the land property or interest, or cannot be found in the province or is not known;

(c) for another reason, agreement cannot or may not be reached with the person; or

(d) for another reason the council considers it advisable to do so.

(2) An expropriation of land, property or an interest in land or property commenced under the Municipalities Act or the Municipalities Act, 1999 before the coming into force of this section

shall be considered to have been commenced in accordance with this section and Part IX of the Urban and Rural Planning Act, 2000 shall apply to that expropriation.

2000 cU-8 s113

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RSN1990 cU-7 Rep.

114. The Urban and Rural Planning Act is repealed.

2000 cU-8 s114

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Commencement

115. This Act shall come into force on a date to be proclaimed by the Lieutenant-Governor in Council. (In force - Jan. 1/01)

2000 cU-8 s115

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