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RSNL1990 CHAPTER E-19

## **EXPROPRIATION ACT**

Amended:

1991 c43 s6; 1992 c48 s10; 1996 c28; 2001 c42 s13; 2001 cN-3.1 s2; 2002 cW-4.01 s99; 2003 c3;  
2004 cL-3.1 s31; 2008 c47 s5; 2013 c16 s25

# **CHAPTER E-19**

## **AN ACT RELATING TO EXPROPRIATION**

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[Schedule](#)**Short title**

1. This Act may be cited as the *Expropriation Act*.

RSN1970 c121 s1

[Back to Top](#)**Definitions****2. In this Act**

- (a) [Rep. by 1996 c28 s1]
- (b) "authority" means
  - (i) an authority constituted under the *Housing Act*,
  - (ii) a partnership entered into by the Crown and the Central Mortgage and Housing Corporation for the purposes of the *Housing Act*,
  - (iii) the minister appointed by the Lieutenant-Governor in Council under the *Housing Act* to administer that Act, or
  - (iv) a hospital, school or the body that owns, operates or is empowered to hold property for the hospital or school, where the Lieutenant-Governor in Council declares the hospital, school or body to be an authority for the purpose of this Act,on whose behalf land is expropriated;
- (c) "board" means the Board of Commissioners of Public Utilities as appointed under the *Public Utilities Act*;
- (d) "claimant" means a person who claims for payment of compensation on account of the expropriation of land or as a result of being detrimentally affected by the expropriation;
- (e) "expropriated" means expropriated in accordance with this Act;
- (f) "land" includes
  - (i) chattels real as defined in the *Chattels Real Act*, and highways, roads, streets or other ways,
  - (ii) buildings and a part of a building, and all machinery and fixtures erected or placed in or on a building, in, over, or affixed to land,
  - (iii) all structures and fixtures erected or placed upon, in, over, under or that are affixed to a highway or other public communication, land or water, and
  - (iv) a leasehold or other interest in land;
- (g) "minister" means the minister appointed under the *Executive Council Act* to administer this Act;
- (h) "notice of expropriation" means a notice of expropriation served or posted under this Act;
- (i) "owner" includes purported owner;
- (j) "peace officer" means a member of the Royal Newfoundland Constabulary or a member

of the Royal Canadian Mounted Police stationed in the province;

(k) [Rep. by 2013 c16 s25]

(l) "sheriff" means the Sheriff of Newfoundland and Labrador and includes sub-sheriffs and deputy sheriffs.

RSN1970 c121 s2; 1973 No30 Sch; 1981 c79 s8; 1982 c44 s2(2); [1996 c28 s1](#);  
[2001 cN-3.1 s2](#); [2013 c16 s25](#)

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### Purposes of expropriation

#### 3. Land may be expropriated for

- (a) the construction, repair and maintenance of public buildings and other public works;
- (b) the construction, repair and maintenance of roads, airstrips, ferry landings and bridges;
- (c) the establishment or development of an industrial enterprise by the Lieutenant-Governor in Council under the *Industries Act* or for a purpose incidental or related to that or for the purpose of assisting in or encouraging the establishment or development of an industrial enterprise by a person or for a purpose incidental or related to the establishment or development of that industrial enterprise;
- (d) the purpose of assisting or encouraging the establishment or development of a fishing enterprise by a person or for a purpose incidental or related to the establishment or development of that fishing enterprise;
- (e) the establishment or development of a land development area under the *Land Development Act*;
- (f) the purposes of
  - (i) section 17 of the *Department of Municipal and Provincial Affairs Act*, or
  - (ii) a water supply committee referred to in that Act;
- (g) the purposes of
  - (i) the *Housing Act*, or
  - (ii) the *Housing Corporation Act*;
- (g.1) the purposes of the *Water Resources Act* ;
- (h) use as a townsite or the site of a housing development by a body authorized on that behalf by the Crown in right of Canada or the Crown in right of the province;
- (i) transfer to the Crown in right of Canada for the purpose of a national park or national historic site established under the *Canada National Parks Act* (Canada );
- (i.1) transfer to the Crown in right of Canada for the purpose of the creation of a reserve under the *Indian Act* (Canada );
- (j) transfer to the Canadian Saltfish Corporation referred to in the *Saltfish Act* (Canada ) for a purpose of that Act;
- (k) constituting an area within the province as a provincial park under the *Provincial Parks Act*;
- (l) the construction, reconstruction or extension of a hospital or school by an authority

referred to in subparagraph 2(b)(iv) or for another purpose or use of or connected with the hospital or school, or for providing the land necessary for the reasonable enjoyment or protection of the hospital or school;

- (m) the purpose of assisting in or encouraging the institution, promotion, development or improvement by a person of accommodation for the travelling or vacationing public or for a purpose incidental or related to that purpose;
- (n) the establishment, construction, extension or improvement by the province or a person of facilities for recreation or sport of any kind or for a purpose incidental or related to that recreation or sport;
- (o) the establishment, construction, extension or improvement by the province or a person of facilities for the arrival, departure, maintenance and servicing of a means of transportation or carrying of passengers or goods or both and for the accommodation, comfort and convenience of passengers and the loading, unloading, storing or handling of goods arriving or departing or for a purpose incidental or related to those matters; or
- (p) the use of the Crown or of the public for another purpose.

[RSN1970 c121 s3; 1973 No48 ss6&8; 1982 c44 s2; 2002 cW-4.01 s99; 2003 c3 s1; 2008 c47 s5](#)

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### **Labrador Inuit rights**

**3.1** Notwithstanding section 3, this Act shall be read and applied in conjunction with the *Labrador Inuit Land Claims Agreement Act* and, where a provision of 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.

[2004 cL-3.1 s31](#)

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### **Power to expropriate**

**4.** (1) Where in the opinion of the minister it is necessary to acquire land for a purpose described in section 3 and

- (a) the owner of the land or a person having an interest in it refuses to accept the sum of money which the minister or the authority on whose behalf the land is to be acquired offer for the purchase of the land;
- (b) an agreement cannot be reached on the amount to be paid for the land or on other terms of the purchase of the land;
- (c) the owner of the land is not known to the minister or cannot be found by the minister after reasonable inquiry;
- (d) the owner of the land is incapable of conveying the land or his or her interest in it; or
- (e) for another reason the minister considers it advisable to expropriate the land

the minister may

- (f) for a purpose described in paragraphs 3(a) and (b); or
- (g) with the approval of the Lieutenant-Governor in Council for a purpose described in paragraphs 3(c) to (p),

and in accordance with this Act expropriate the land on behalf of the Crown or on behalf of the authority named in the notice of expropriation.

(2) Where the minister expropriates land on behalf of an authority, the authority may exercise the powers conferred and shall carry out the duties and obligations imposed upon the minister by this Act, except those set out in sections 3, 7 and 15.

RSN1970 c121 s4; 1973 No97 s2

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### **Expropriation on behalf of an authority**

5. Where an authority requires land and wishes to have it expropriated the authority or its authorized representative shall apply to the minister in writing for the expropriation of the land and together with the application shall submit to the minister a plan and description of the land to be expropriated and a statement of the purpose for which the land is required.

RSN1970 c121 s5

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### **Ascertainment of land to be expropriated**

6. (1) The minister may by a person authorized by him or her for the purpose ascertain and delimit the land to be expropriated, whether for the Crown or for an authority, and for that purpose the person so authorized may enter upon land and do the 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.

(2) The minister shall compensate the owner of land detrimentally affected by an act done under this section and in default of agreement between the minister and the owner the amount of compensation shall be determined and paid in the same manner and with the same effect as compensation is determined and paid under this Act.

RSN1970 c121 s6

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### **Notice of expropriation**

7. (1) The minister shall

- (a) serve a written notice on the owner of the land to be expropriated and on all other persons who are known by the minister at the time when the notice is served to have an interest in the land; or
- (b) where the owner is incapable of conveying the land or cannot be found in the province or is not known to the minister or where for another reason personal service cannot be conveniently effected, post a written notice in a conspicuous place on the land to be expropriated.

(2) A notice of expropriation shall

- (a) contain a plan and 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) where the land is being expropriated
  - (i) for a purpose referred to in paragraph 3(b), or

(ii) for an authority,

name the authority on whose behalf the land is being expropriated and in whom title to the land will vest; and

(d) be signed by the minister.

[RSN1970 c121 s7; 1973 No21 s2](#)

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### **Owner to file claim**

**8.** (1) Where the 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 within a time after the date of service of the notice that the minister may fix in the notice, but the minister may extend the time for that filing as he or she considers appropriate.

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

[RSN1970 c121 s8; 1996 c28 s2](#)

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### **Publication of notice**

**9.** (1) The minister may, in addition to serving or posting a notice of expropriation, publish in a newspaper in the province and circulating in the area where the land that is being expropriated is located a notice requiring persons who may be interested in the land to file a claim within 3 months after the date of the notice.

(2) A notice published under subsection (1) shall contain a copy of the plan referred to in paragraph 7(2)(a).

(3) Where the minister is of opinion that the notice referred to in subsection (1) should not contain a copy of the plan, he or she may publish the notice without that copy, but then that notice shall contain the following statement:

A person who wishes to view a plan of the land that is the subject of this notice may do so at the offices of the Department of Works, Services and Transportation, St. John's, Newfoundland and Labrador and a person who wishes to obtain a copy of the plan may obtain it at those offices upon the payment of \_\_\_\_\_ for that copy.

(4) The minister shall establish a reasonable charge for the copy of the plan and the amount of the charge shall be inserted in the statement and the provisions of the statement shall be complied with.

(5) After the expiration of 3 months from the publication of the notice referred to in subsection (1) the board may proceed to determine the amount of compensation payable in respect of the land expropriated.

(6) A claimant who has failed to file a claim is bound by the award of the board.

[RSN1970 c121 s9; 1973 No21 s3; 1996 c28 s3; 2001 cN-3.1 s2](#)

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### **Limited estate**

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

RSN1970 c121 s10

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#### **Rights of mortgagee or lien holder**

11. (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, 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, the amount secured by the mortgage or lien shall be deducted from the compensation payable and be paid by the minister to the mortgagee or lien holder and the receipt of the mortgagee or lien holder is a valid discharge of the minister for the amount of the compensation paid in satisfaction of the mortgage or lien.

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

RSN1970 c121 s11

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#### **Error not to invalidate expropriation**

12. (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 an amendment shall be served or posted and registered in accordance with this Act 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 amended by it.

RSN1970 c121 s12

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#### **Notice where compensation agreed upon**

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

(2) This Act applies so far as it is necessary to expropriations made under subsection (1) and a notice of expropriation given under that subsection shall be posted in a conspicuous place on the land in addition to being served on the apparent owner.

(3) Where land is expropriated under subsection (1), a reference shall not be made to the board where the apparent owner of the land establishes his or her 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 Act.

RSN1970 c121 s13; [1996 c28 s4](#)

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#### **Vesting of title**

**14.** (1) Ten days after a notice of expropriation is served or posted, the title to the land vests in the minister or the authority named in the notice of expropriation.

(2) Where a person resists or opposes the minister or a person acting on behalf of the minister in entering upon and taking possession of, or exercising a power in respect of, expropriated land after the title to the land has vested under subsection (1), a judge of the Trial Division or a Provincial Court judge may, on proof of service of the notice of expropriation or of the posting of it on the land, order the sheriff or a peace officer to put down the resistance or opposition and to put the minister or some person acting on his or her 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 judge stating the manner in which he or she executed the order.

RSN1970 c121 s14; 1974 No 57 s38 (264(m)); 1979 c38 s7; 1986 c42 Schs A&B

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### **Register of expropriations**

**15.** The minister shall keep a register that shall contain the particulars of all expropriations under this Act and of all notices and awards that have been served, posted or made in connection with those expropriations.

RSN1970 c121 s15

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### **Registration in Registry of Deeds**

**16.** (1) A copy of a notice of expropriation upon which is endorsed or to which is attached an affidavit or a certificate of oath in proof of service of the notice upon the owner of the land, or of the posting of the notice, shall be considered to be included among the deeds and other documents to which reference is made in section 6 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 shall apply to proof of service or of posting of the notice as if the person serving or posting the notice were the signing witness to the execution of the instrument.

(3) The registration of the copy of the notice with the affidavit or certificate attached has the same effect as the registration of an instrument under the *Registration of Deeds Act* and for the purposes of section 10 of that Act the person in whom the title is vested under section 14 of this Act shall be considered to be a purchaser for valuable consideration.

(4) Entry by the Registrar of Deeds in the index to the books of registry of the names of the person or body upon whom the notice is served, or upon whose land the notice is posted and of the person in whom the title is vested under section 14 as the parties, the situation of the land to which the notice relates, a description of the document as a notice of expropriation, the date of the service or posting of the notice and the place of registration constitutes compliance with the provisions of section 29 of the *Registration of Deeds Act*, but where the name of the owner of the land is not known an entry to that effect shall be made instead of his or her name.

RSN1970 c121 s16

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### **Compensation**

**17.** (1) The minister shall pay compensation to the owner of land expropriated and to the owner of land detrimentally affected by the expropriation.

(2) Where land is expropriated for the purposes referred to in paragraph 3(g), compensation shall not be paid under this Act

- (a) in respect of the expropriation of a highway, road, street or other way that immediately before the expropriation was dedicated to the use of the public or vested in a municipal authority;
- (b) to a municipal authority in respect of water pipes, hydrants or sewers erected or placed on, in, over or under land; or
- (c) in respect of a building where a municipal authority or other authority has under a law of the province declared the building to be uninhabitable and refused permission to repair it or ordered that the building be condemned or demolished.

(3) In subsection (2), "municipal authority" means the St. John's Municipal Council, the Corner Brook Municipal Council, the Mount Pearl Municipal Council or a town council, community council, regional council or local service district committee established or continued under the *Municipalities Act*.

(4) Where an assessment authorized by law has been levied on land that has been expropriated but has not been paid and the minister 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 to the body levying the assessment and the receipt of that body is a valid discharge of the minister for the amount of the compensation paid in satisfaction of the assessment.

RSN1970 c121 s17; 1979 c33 Sch C

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### Particulars of claims

**18.** (1) Where a notice of expropriation has been served or posted under this Act, the person on whom it is served, the owner and other persons who are or may be entitled to claim compensation in respect of the expropriation or as a result of being detrimentally affected by the expropriation shall submit to the minister

- (a) particulars of his or her estate and interest in the land expropriated or detrimentally affected and of 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 him or her relating to the title to the land; and
- (c) other information that the minister requests in connection with the land, the title to the land and his or her interest in it or in connection with his or her claim.

(2) Where a claimant fails to provide the minister with satisfactory proof of title, the minister 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 within 30 days after the claimant files a claim with the minister.

(3) The minister is not required to make or arrange for the payment of compensation or the transfer of another matter by way of compensation under this Act until the time when the claimant has established his or her title or claim to the reasonable satisfaction of the minister or in accordance with this Act.

RSN1970 c121 s18

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### Board to fix compensation

**19. (1) Where**

- (a) the minister and the owner of land expropriated or detrimentally affected by the expropriation cannot agree on the amount of compensation to be paid for the expropriated land or on account of being detrimentally affected;
- (b) the owner cannot be found or there is a doubt as to the ownership of the land; or
- (c) for another reason the minister considers it expedient

the amount of compensation to be paid shall be fixed by the board.

- (2) An application to fix compensation under subsection (1) shall be made by the minister.

[1996 c28 s5; 2001 c42 s13](#)

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**Operation of board**

**20. (1)** Except where inconsistent with this Act or the regulations, the provisions of the *Public Utilities Act* in relation to the constitution, powers, procedures, and practices of the board apply to and in respect of the board when acting under this Act.

(2) Where the board hears a compensation application under subsection (1) a quorum shall be one or more commissioners as determined by the board.

[1996 c28 s5](#)

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**Rep. by 1996 c28 s6**

**21.** [Rep. by 1996 c28 s6]

[1996 c28 s6](#)

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**Notice of hearing**

**22.** 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 that was expropriated and shall give those parties a reasonable opportunity to offer evidence at the hearings.

[RSN1970 c121 s22](#)

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**Rep. by 1996 c28 s6**

**23.** [Rep. by 1996 c28 s6]

[1996 c28 s6](#)

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**Rep. by 1996 c28 s6**

**24.** [Rep. by 1996 c28 s6]

[1996 c28 s6](#)

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### Rep. by 1996 c28 s6

25. [Rep. by 1996 c28 s6]

[1996 c28 s6](#)

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### Board may try questions of law and fact

26. (1) The board may, in addition to assessing the value of land expropriated, try all questions of law and fact which it is necessary for it to try in order

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

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

(2) The board may state an award for compensation as to the whole or part of the compensation in the form of a special case for the opinion of the Trial Division.

(3) The board may at any stage of its proceedings and shall where directed by a judge of 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 may apply to a judge of the court for an order directing that a question of law arising in the course of proceedings before the board shall be stated in the form of a special case.

[RSN1970 c121 s26; 1974 No57 s38 \(264\(m\)\); 1986 c42 Sch A; \[1996 c28 s6\]\(#\)](#)

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### Rules for assessing compensation

27. (1) In fixing the amount of compensation to be paid under this Act the 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 beginning of expropriation proceedings and no account shall be taken of the compulsory acquisition of the land, the disturbance of the owner or occupier, or other detrimental effect;

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

(c) the special suitability or adaptability of the land for a purpose shall not be taken into account where that purpose is one to which the land could be applied only as a result of the authority of an Act 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 in good faith for the purchase of the land made before the beginning of the expropriation proceedings that 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 premises on the land in a manner that 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 occupants 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 a condition that constitutes 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 that 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) in all cases an advantage that 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 such 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 in good faith intended, be assessed on the basis of the reasonable cost of equivalent reinstatement.

(2) Where, in the opinion of the board, it is proper to make an award, in respect of the expropriation of land, for the disturbance to the owner or occupier or for another detrimental effect 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.

RSN1970 c121 s27; [1996 c28 s8](#)

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#### **Alterations or additions in addition to award**

**28.** Where the injury to land alleged to be detrimentally affected by the expropriation of other land may be removed wholly or partly by an alteration in or addition to the work done or to be done on the land expropriated, by the abandonment of a part of the land expropriated, by the grant to the owner of the detrimentally affected land of other land or of an easement and where the minister, before an award is made, undertakes to make the alteration or addition, to abandon part of the land expropriated, to grant other land or to grant an easement to that owner, the board shall take that undertaking into account in making the award in respect of the detrimental effect and the owner is entitled to have the alteration or addition made, the part of the land abandoned, other land or an easement granted to him or her.

RSN1970 c121 s28

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#### **Leasehold land**

**29.** (1) Where land subject to a lease or sublease for a term of not less than 1 year is expropriated the board shall apportion the compensation fixed in respect of the land between the lessor and lessee and sublessee or the assigns of either in a manner that in its absolute discretion seems appropriate.

(2) Where part only of the land referred to in subsection (1) is expropriated the board shall, in addition, apportion the rent payable in respect of the land between the land expropriated and the residue of the land and after the apportionment the lessee or sublessee or their assigns shall, as to all future accruing rent, be liable only for so much of the rent as is apportioned in respect of the land not expropriated.

(3) In respect of the land not expropriated and as against the lessee and sublessee or their assigns the lessor has all 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, and all 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 that is not expropriated in the same manner as they would have done where that part only of the land had been included in the lease or sublease.

RSN1970 c121 s29

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### **Exchange of land**

**30.** (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 minister adjoining the land expropriated, the board may with the assent of the minister mark off a portion of the adjoining land of the minister that the board thinks sufficient to replace the expropriated land.

(2) The minister shall convey the land marked off under subsection (1) to the person whose land has been expropriated and the title to that land then vests in that person and is in place of an award for compensation.

RSN1970 c121 s30

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### **Return of land expropriated**

**31.** (1) Where, before the compensation has been actually paid or before an award is made by the board, a parcel or a part of a parcel of land taken for the purposes of this Act is found to be unnecessary for the purpose for which it was expropriated or where it is found that only a more limited estate or interest in the land or a part of it is required, the minister may, by a written notice served or posted in the manner provided in section 7, 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 14 or that it is intended to retain only a limited estate or interest in the land or a part of it as 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 16 for the registration of a notice of expropriation, the land declared to be abandoned shall revert in the person from whom it was taken or in those entitled to claim under him or her and the provisions of sections 15 and 16 apply to the notice as if it were a notice of expropriation.

(3) In the event of a limited estate or interest in the land or a part of it being retained by the person in whom the title vested under section 14 the land shall revert in accordance with subsection (2), subject to the estate or interest retained.

(4) The event of the abandonment vesting the land in the person from whom it was expropriated shall be taken into account in addition to all 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.

RSN1970 c121 s31; [1996 c28 s9](#)

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### **Award of board to be written**

**32.** (1) The board shall make its award in writing within 60 days after it has been seized with the matter, unless the minister extends that period, and shall immediately deliver a copy of it to all parties to the hearing.

[Subsections (2), (3) and (4) Rep. by 1996 c28 s10]

(5) The minister or an owner of land that has been expropriated may, within 30 days after the date of an award, give to the other party notice of an appeal to the Court of Appeal against the findings of the board upon a question 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.

[RSN1970 c121 s32](#); [1974 No57 Sch D](#); [1986 c42 Sch B](#); [1996 c28 s10](#)

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### **Want of form**

**33.** (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 the award states clearly the compensation awarded and the lands in respect of which it has been awarded.

(2) The board may, but need not, 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.

[RSN1970 c121 s33](#)

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### **Board may award costs**

**34.** (1) The board may award costs in respect of a hearing before it under this Act but the costs shall be taxed by a taxing officer of the Supreme Court in accordance with the scale in the Appendix to Rule 55 of the Rules of the Supreme Court, 1986.

(2) Expenses in connection with a hearing held by the board shall include costs of counsel, engineers, valuers, stenographers, accountants and other assistants employed by the board as well as the salaries and expenses of the members of the board while employed in and about the hearing.

(3) Where the compensation awarded by the board in a case is greater than the sum that the minister offered in writing for the land that was expropriated or detrimentally affected, the minister shall pay costs and all expenses in connection with the hearing held by the board.

(4) Where compensation awarded does not exceed the sum offered, the party which refused the offer shall pay costs and all expenses in connection with the hearing held by the board.

(5) Where in respect of land expropriated or detrimentally affected no sum was offered before expropriation, costs and all expenses in connection with the hearing held by the board shall be paid by the party designated by the board.

[RSN1970 c121 s34](#); [1986 c42 Sch A](#); [1992 c48 s10](#); [1996 c28 s11](#)

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### **Payment of compensation**

**35.** The minister shall pay the compensation awarded by the board within 6 months after the date on which the award was made, and, where the compensation is not paid within 30 days after the date on which the award was made, it shall after the end of the 30 days bear interest at the rate of 5% a year until it is paid.

[RSN1970 c121 s35](#); [1996 c28 s12](#)

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### **Award of additional interest**

**36.** Notwithstanding section 35, the board may, at the time of awarding compensation, direct that interest

- (a) at the rate referred to in that section; and
- (b) covering part or all of the period between the date of the vesting of title under this Act and the date that the compensation starts to bear interest under section 35

shall be paid to the person to whom the compensation is awarded, after consideration has been given by the board to action or inaction on the part of

- (c) the person to whom the compensation is awarded;
- (d) the representatives of the person to whom the compensation is awarded; and
- (e) the minister,

and the minister shall pay the interest directed to be paid.

[RSN1970 c121 s36; 1996 c28 s13](#)

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#### **Award of interest by minister**

**37.** Where the amount of compensation to be paid to the owner of land expropriated or detrimentally affected is not required to be fixed by the board under section 19 and the minister and the owner enter into an agreement on the amount of the compensation to be paid, the minister may award and pay interest to the person to whom the compensation is payable at the rate of 5% a year covering part or all of the period between the date of the agreement and the date of payment of the compensation.

[RSN1970 c121 s37; 1996 c28 s14](#)

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#### **Claims upon compensation**

**38.** The compensation agreed upon or awarded in respect of land expropriated or detrimentally affected by the exercise of powers conferred by this Act shall stand in the stead of the land expropriated or detrimentally affected and a claim to or encumbrance upon the land expropriated or detrimentally affected shall, as against the minister, become a claim to or upon the compensation and shall no longer affect the land expropriated or detrimentally affected.

[RSN1970 c121 s38](#)

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#### **Payments into court**

**39.** (1) Where, in respect of land that has been expropriated or detrimentally affected,

- (a) the owner
  - (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 in land claimed by him or her to the reasonable satisfaction of the minister,
  - (iii) refuses to execute a document or receipt of indemnity in respect of the land as required by the minister,

- (iv) is absent from the province or cannot after inquiry by the minister be found, or
- (v) is under a disability;
- (b) a person other than the owner to whom compensation is payable under this Act
  - (i) refuses to accept the compensation awarded to him or her,
  - (ii) is 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 in respect of the compensation or that for whatever reason it is advisable to pay the compensation into the Trial Division,

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

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

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

[RSN1970 c121 s39; 1974 No57 s38 \(264\(m\)\); 1986 c42 Sch A; 2013 c16 s25](#)

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### **Minister to notify claimants**

**40.** When money is paid into the Trial Division under this Act the minister shall

- (a) notify those persons referred to in section 39 to whom notice can be given;
- (b) file with the Trial Division the name and address of persons who to the knowledge of the minister claim the compensation or a part of it, together with all information in the possession of the minister in respect of the expropriation and claims for payment of compensation on account of the expropriation or detrimental effect resulting from it; and
- (c) within 10 days after payment into court publish a notice in a newspaper published in the province and circulating in the area where the land is located stating the place where the land is located, describing and delimiting the land, that the land has been expropriated under this Act and calling upon all persons who had an interest in or claim against the land or who have been detrimentally affected by the expropriation to file their claims to the compensation or part of it with the Trial Division.

[2013 c16 s25](#)

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### **Names and addresses**

**41.** The names and addresses of claimants to compensation shall be provided at the court to a person upon request.

[2013 c16 s25](#)

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### Rep. 2013 c16 s25

42. [Rep. 2013 c16 s25]

[2013 c16 s25](#)

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### Where claim to compensation

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

[2013 c16 s25](#)

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### Petition for payment out of court

44. (1) An application to a judge of the Trial Division under section 43 shall be made by application of the claimant stating that to the best of his or her belief he or she was immediately before the expropriation the owner of the land or interest in respect of which he or she claims and setting out in detail the facts on which his or her belief is founded.

(2) Where he or she is not aware of the existence of a claim adverse to or inconsistent with his or her own he or she shall state that.

(3) Where he or she is aware of an adverse claim he or she shall set out every adverse claim and shall state that he or she is not aware of an adverse claim except what he or she sets out.

(4) The application shall be verified by affidavit, but with leave of the judge the affidavit of the applicant may be dispensed with or may be made by some person other than the applicant and the affidavit may be made in part by one person and in part by another person.

[RSN1970 c121 s44; 1974 No57 s38 \(264\(m\)\); 1986 c42 Sch A](#)

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### Notice of application

45. (1) Before proceedings are taken under section 44 a claimant shall post notice of his or her intention to make an application under that section in the registry of the Trial Division for 3 clear days, and he or she shall then give notice of his or her 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 the compensation.

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

(3) At any stage of the proceedings the judge may require further publication to be made or further notice to be served upon a person that he or she considers necessary.

[RSN1970 c121 s45; 1986 c42 s153; 2013 c16 s25](#)

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### Adverse claims

**46.** A person having an adverse claim or a claim not recognized in the application may at any time before the hearing of the subject matter of the application file with the Trial Division a statement of the particulars of his or her claim verified by affidavit and serve a copy of the statement on the petitioner, his or her solicitor or agent.

RSN1970 c121 s46; [2013 c16 s25](#)

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### **Security for costs**

**47.** The judge may at any stage of the proceedings order security for costs to be given by the applicant or by a person making an adverse claim.

RSN1970 c121 s47

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### **Costs**

**48.** The judge may order costs either between party and party or between solicitor and client to be paid by or to a party to a proceeding.

RSN1970 c121 s48

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### **Adjudication**

**49.** The matter of the application may be heard and adjudicated upon and the judge may then make an order for the distribution, payment or investment of the compensation and for securing the rights of all parties interested as the judge considers appropriate.

RSN1970 c121 s49

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### **Compensation**

**50.** In cases referred to in section 49, the compensation shall be disposed of by the Trial Division as directed by the judge.

[2013 c16 s25](#)

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### **Application of Judicature Act**

**51.** The practice and procedure under the *Judicature Act* and the Rules of the Supreme Court, 1986 apply to all proceedings under sections 44 to 50.

RSN1970 c121 s51; 1986 c42 Sch B

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### **Claims barred after 3 years**

**52.** (1) A claim to compensation or a part of compensation paid into the Trial Division under this Act that has not, before the end of 3 years from the date of payment into court, been adjudicated upon by a judge of the Trial Division in accordance with this Act is forever barred.

(2) Where before the end of the period of 3 years referred to in subsection (1), an application for payment of the compensation was made to a judge of the Trial Division under this Act and the application has not been finally disposed of before the end of that period, the application may be dealt with and disposed of in the same manner and with the same effect as if the period of 3 years had not ended at the date of final disposition.

[2013 c16 s25](#)

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### **Compensation becomes property of minister**

**53.** Where a claim to compensation is barred under section 52, the compensation and all interest accrued become the property of the minister and the compensation and interest shall be returned to the minister.

[2013 c16 s25](#)

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### **Guardian**

**54.** (1) Where a person who, if not under a disability, might have made a claim for compensation under this Act, or might have made an application, given a consent, done an act or been a party to a proceeding under this Act, is an infant, or a mentally incompetent person, the guardian of the infant or of the estate of the mentally incompetent person may file a claim for compensation, make application, give consent, do each act or be a party to a proceeding as that person might have filed, made, given, done or been if he or she had not been under a disability and the guardian shall otherwise represent that person for the purpose of this Act.

(2) Where an infant or a mentally incompetent person referred to in subsection (1) has no guardian, a judge of the Trial Division may appoint a guardian to represent the infant or person for the purposes of that subsection and the guardian has the powers of a guardian referred to in that subsection.

(3) Where it appears that an infant or mentally incompetent person may be interested in opposing the claim of a claimant making a petition under this Act, a judge of the Trial Division may appoint a guardian to represent the infant or mentally incompetent person and the infant or mentally incompetent person is bound by the adjudication in the matter in respect of which the petition is made.

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

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

[RSN1970 c121 s55; 1974 No57 s38 \(264\(m\)\); 1986 c42 Sch A](#)

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### **Disposal of land**

**55.** The minister may, subject to the approval of the Lieutenant-Governor in Council, sell, lease or otherwise dispose of land or an interest in land expropriated and not abandoned upon those terms and conditions and for the consideration that the minister considers appropriate.

[RSN1970 c121 s56](#)

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### Disposal of land

**56.** The minister may, subject to the approval of the Lieutenant-Governor in Council and to section 3 of the *Works, Services and Transportation Act*, sell, lease or otherwise dispose of land or an interest in land vested in him or her for and on behalf of the Crown under this Act, upon those terms and conditions and for the consideration that the minister considers appropriate.

[2008 c47 s5](#)

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### Entry upon land

**57.** (1) Where the minister considers it necessary or desirable for the performance of anything authorized to be done by or under an Act in the Schedule to this Act he or she may, by his or her employees, engineers, contractors and other servants or an authorized person, enter upon Crown land or upon the land of a person and may at reasonable times enter houses, buildings, tenements or erections upon the land and may do and execute works and things that may be required for the purpose of that performance.

(2) The minister shall compensate the owner of land detrimentally affected by an act done under this section and in default of agreement between the minister and the owner the amount of compensation shall be determined and paid in the same manner and with the same effect as compensation is determined and paid under this Act.

[RSN1970 c121 s58](#); [2001 c42 s13](#)

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### Offence

**58.** A person who obstructs or interferes with a person exercising on behalf of the minister a power conferred by this Act or who interferes with an erection placed upon or work done on land under this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$100 and in the case of a 2nd or subsequent conviction for a similar offence to a fine not exceeding \$200 and, in either case, in default of payment to imprisonment for a term not exceeding 3 months.

[RSN1970 c121 s59](#)

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**Schedule**

Department of Fisheries Act

Housing Act

Industries Act

Land Development Act

Provincial Parks Act

RSN1970 c121 Sch 1

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