

Expropriation Procedures Regulations

made under subsections 7(4), 9(2) and 11(6) and Section 66 of the
Expropriation Act
R.S.N.S. 1989, c. 156

O.I.C. 74-1366 (December 19, 1974, effective January 1, 1975), N.S. Reg. 103/74
as amended by O.I.C. 2014-216 (June 17, 2014), N.S. Reg. 89/2014

[Note: Effective December 14, 1992, by N.S. Reg. 291/1992, the Nova Scotia Utility and Review Board adopted these regulations as its Rules of Practice and Procedure under the Utility and Review Board Act.]

[Note: Effective December 14, 1992, references to the Expropriations Compensation Board throughout these regulations should be read as references to the Utility and Review Board in accordance with Section 47 of the Utility and Review Board Act, S.N.S. 1992, c. 11.]

1 (1) In these regulations

(a) “Act” means the Expropriation Act, 1973, Chapter 7, Statutes of Nova Scotia 1973;

(b) “hearing” means a hearing before the Expropriations Compensation Board;

(c) “Board” means the Expropriations Compensation Board;

[Note: Effective December 14, 1992, Section 36 of the Utility and Review Board Act replaces the definition of “Board” in the Expropriations Act to mean the Utility and Review Board.]

(d) “Chairman” means the Chairman of the Board;

(e) “claimant” means a person claiming compensation under the Act or who is believed to have a claim by the expropriating authority or the statutory authority;

(f) “Clerk” means the Clerk of the Board;

(g) “Commissioner” means a member of the Board;

(h) “person” means person as defined in the Interpretation Act and includes a partnership;

(i) “respondent” means the expropriating authority;

(j) words importing male persons include female persons;

(k) words in the singular include the plural, and words in the plural include the singular.

(2) Words used in these regulations that are defined in the Act have the same meaning herein as set forth in the Act.

(3) A reference in these regulations to a Form or Forms means the form or forms set forth in the Schedule to these regulations.

2 Where Her Majesty the Queen in the Right of the Province of Nova Scotia, the Nova Scotia Power Corporation, an approved applicant as defined in the Maritime Link Act, Maritime Telegraph and Telephone Company Limited or the Halifax-Dartmouth Bridge Commission desires to expropriate land, the approval for such expropriation shall be evidenced by an Order in Council or by a copy of an Order in Council certified by the Clerk of the Executive Council to be a true copy thereof, which Order in Council or certified copy thereof shall have attached thereto as schedules, a description of the land to be expropriated and a plan thereof.

Section 2 amended: O.I.C. 2014-216, N.S. Reg. 89/2014.

3 Where a city, municipality, a town, a village or the Halifax Public Service Commission desires to expropriate land, approval of the approving authority shall be evidenced by a resolution or a certified copy of a resolution passed by the municipal council in the case of a municipality, by the town council in the case of a town, by the village commissioners in the case of a village, by the city council in the case of a city, [or] by the City Council of Halifax in the case of the Halifax Public Service Commission, which resolution shall be certified by the official of the municipality, the town, the village, or the city so authorized by the legislation pertaining to the appropriate elected political body and designated by the elected political body to certify the same, and such resolution or certified copy thereof shall have attached thereto a description and plan of the land to be expropriated.

4 Where any corporation, commission or body is responsible to an elected political body and that corporation, commission, or body desires to expropriate land and that corporation, commission or body is not one coming within those referred to in Regulation [Section] 2 or 3, approval of the expropriation by the approving authority shall be evidenced by a resolution or a certified copy of a resolution of the elected political body to which the corporation, commission, or body is responsible, unless the elected political body is Her Majesty the Queen in the Right of the Province of Nova Scotia in which case approval shall be evidenced in the manner provided for in Regulation [Section] 2, and such resolution or certified copy thereof shall have attached thereto a description and plan of the land to be expropriated.

5 In any case where land is desired to be expropriated and that case is not provided for by Regulations [Section] 2, 3 or 4, then approval of the said expropriation shall be evidenced by a document bearing the signature of the Attorney General and having attached thereto a description of the land to be expropriated and a plan thereof.

6 An Order in Council or a certified copy thereof, or a resolution or a certified copy thereof of a municipality, town, village or city or a document or a certified copy thereof executed by the Attorney General in accordance with Regulation [Section] 2, 3, 4 or 5 hereof shall be and shall be deemed to be a certificate of approval executed by the approving authority thereof within the meaning of clause (e) of subsection (1) of Section 11 of the Act.

7 Where an expropriating authority has expropriated land and desires to abandon the expropriation or a part thereof or it is found that a more limited estate or interest therein only is required, and the expropriating authority wishes to declare the abandonment or part thereof or limited estate or interest, said expropriating authority shall not do so until it has obtained the authorization of the body that originally approved the expropriation, and such approval of the abandonment or part thereof or limited estate or interest shall be evidenced by an Order in Council

or copy thereof certified by the Clerk of the Executive Council in the case of those bodies coming within Regulation [Section] 2, or a resolution or a certified copy of a resolution of the appropriate elected political body where the expropriating authority is a municipality, a town, a village, a city, the Halifax Public Service Commission or a corporation, commission or body responsible to an elected political body but not listed within clauses (a) to (f) inclusive of Section 8 of the Act (except in the case of Her Majesty the Queen in Right of the Province), and in all other cases not provided for, a document or a certified copy under the signature of the Attorney General.

8 A written request for information to the owner from the expropriating authority pursuant to subsection (5) of Section 11 shall be in Form 1 of Schedule A.

9 A declaration of abandonment shall be in Form 2 of Schedule A.

10 Proceedings before the Board for a determination of compensation shall be commenced by a notice of hearing which shall be served upon all known parties affected by the determination sought and shall be filed with the Board.

11 (1) A notice of hearing served by a claimant for compensation shall be in Form 3.

(2) The claimant within ten days after the date of service on the expropriating authority shall file with the Board proof that service of the notice of hearing was served on the respondent.

12 (1) Where an expropriating authority has been served as respondent with a notice of hearing in Form 3, the respondent shall serve a reply in Form 4 on the claimant within twenty days after service of the notice of hearing, and shall forthwith after service of the reply file a copy thereof with the Board.

(2) Notwithstanding subsection (1), if the respondent does not comply with subsection (1) the claimant may make application to the Board for a hearing and the Board may upon such application make an order appointing a time and place of hearing and may conduct the same in the absence of the respondent and make an order setting forth its decision.

13 (1) A notice of hearing served by a respondent shall be in Form 5 and shall be served upon the claimant.

(2) The respondent within ten days after the date of service on the claimant shall file with the Board proof that service of the notice of hearing was served on the claimant.

14 (1) Where a notice of hearing has been served by the respondent, the claimant shall within twenty days after service of notice of hearing file with the Board and serve on the respondent a statement of claim for compensation in Form 6, stating clearly and concisely the amount claimed by him, the basis upon which such amount is calculated and the facts in support of each element of compensation claimed.

(2) Except by leave of the Board, no application for an order appointing the time and place of the hearing shall be entertained until subsection (1) has been complied with.

(3) Notwithstanding subsections (1) and (2), if the claimant does not comply with subsection (1), the respondent may make application to the Board for a hearing and the Board may upon such application make an order appointing a time and place of hearing and may conduct the same in the absence of the claimant and make an order setting forth its decision.

15 Where the claimant has served a statement of claim pursuant to Regulation [Section] 14, the respondent shall within thirty days thereafter serve a reply in Form 7 on the claimant and forthwith after said service file a copy with the Board.

16 (1) Where a respondent denies that a claimant is entitled to compensation because

- (a) the claimant has no interest in the land expropriated or injuriously affected; or
- (b) no compensation is payable with respect to the interest of the claimant in such land;
- (c) the claim of the claimant is barred by a provision in the Act or any other statute,

it shall raise such denial in its reply, setting out the relevant facts in respect thereto.

(2) Failure of the respondent to comply with subsection (1) shall not preclude the respondent from making an argument in respect thereto at the hearing.

17 (1) A document to be served on the Crown shall be served by delivering a copy to the office of the Attorney General or the Deputy Attorney General or any barrister or solicitor employed in the Department of the Attorney General, or by delivering a copy to a barrister or solicitor designated for the purpose by the Attorney General.

(2) Where a document or notice must be served upon a Provincial crown corporation, it shall be served by delivering a copy to the office of the Attorney General or the Deputy Attorney General or any other barrister or solicitor employed in the Department of the Attorney General, or by delivering a copy to a barrister or solicitor designated for that purpose by the Attorney General and a copy served upon the chief executive officer of the Provincial crown corporation, and such service shall be and shall be deemed to be service upon the corporation.

(3) In all other cases where a document must be served upon a claimant or respondent it shall be served upon the person or persons as prescribed by the Civil Procedure Rules.

(4) The method of serving documents shall be as prescribed by subsection (2) of Section 3 of the Act.

[Note: Effective April 8, 1993, the Department of the Attorney General is replaced with the Department of Justice by Order in Council 93-352 under the Public Service Act, R.S.N.S. 1989, c. 376.]

18 Unless otherwise ordered by the Board, no pleadings other than a notice of hearing, statement of claim and reply under these regulations, are required in a hearing to determine compensation.

19 Where a person has been appointed under Section 64 of the Act to represent a claimant, the respondent may examine such person appointed as well as the claimant if the claimant is competent to give evidence.

20 (1) The Clerk shall, as soon as thirty days have elapsed after service of a notice of hearing on the Board, send to the party who served the notice of hearing a certificate of readiness in Form 8 in blank.

(2) Subject to Regulations [Sections] 12 and 14, the Board may of its own motion appoint a time and place for the hearing and shall mail notice of appointment to the parties by registered mail upon being furnished with a certificate of readiness duly completed and signed by or on behalf of all parties, or, if such certificate is not furnished, within ten days after certificate of readiness has been sent by the Clerk.

21 The Board may, on application of any person having or claiming an interest as an owner in the land or in the compensation that may be awarded as a result of a hearing, add such person as a party to the hearing proceedings either as a claimant or a respondent on such terms as it considers proper.

22 At the commencement of a hearing to determine compensation, the respondent,

(a) where the hearing relates to an expropriation, shall file with the Board a copy of the document or documents required to be deposited at the office of the Registrar of Deeds pursuant to subsection (1) of Section 11 of the Act;

(b) shall file an affidavit setting forth the persons upon whom and the nature and extent to which service of the notice of hearing was made.

23 Subject to these regulations, the procedure at the hearing of any proceedings shall be such as the Board may direct.

24 Except on such terms as the Board considers proper, no evidence may be tendered by the claimant at a hearing to determine compensation for expropriation of land of any offer to purchase the land made to him by any person other than the respondent at any time prior to the expropriation unless he has served on the respondent not later than fifteen days before the hearing notice of his intention to call such evidence with particulars thereof.

25 A summons to a witness under subsection (1) of Section 48 of the Act shall be in Form 9 and shall be issued in the name of the Board by the Clerk at the request of a claimant or a respondent and shall be served personally on the person to whom it is addressed together with the fees and allowances for his attendance as a witness as are prescribed for attendance of a witness before the Supreme Court, and where the summons requires the production of documents or things it should set forth clearly the documents or things required.

[Note: Effective December 14, 1992, Section 48 of the Act is repealed by Section 36 of the Utility and Review Board Act, S.N.S. 1992, c. 11.]

26 The Board may give such directions as to the practice and procedure to be followed in any proceeding before it as it considers proper under the circumstances.

27 Where, in the opinion of the Board, an amendment to a document filed with the Board is necessary to determine the issue before it, the Board may direct the amendment upon such terms as the Board in its discretion considers proper.

28 The Board may enlarge or abridge the time appointed by these regulations for doing anything or taking any proceedings, upon such terms as the Board considers proper.

29 The Board may from time to time adjourn any proceeding before it for a reasonable length of time either sine die or an appointed time.

30 No proceedings before the Board shall be defeated or affected by any technical objection or by any objection based upon defects in form.

31 The Board shall prepare a formal order once it has reached its final decision and furnish a certified copy of such order to each claimant and each respondent.

32 The forms hereto are prescribed for use with such variations as circumstances or the nature of the application require.

33 All notices of hearings, statements of claim, replies, orders or other papers or documents to be served, filed or prepared under these regulations shall be printed, typewritten, written or reproduced legibly upon one side of good quality paper eleven inches in length and eight and one-half inches in width, with a margin upon the left hand side.

34 All oral evidence shall be submitted in accordance with Section 47 of the Act.
[Note: Effective December 14, 1992, subsection 47(2) of the Act is repealed by Section 36 of the Utility and Review Board Act, S.N.S. 1992, c. 11.]

Schedule "A"

Form 1—Request for Information
the Expropriation Act, 1973
(Regulation [Expropriation Procedures Regulations, S.] 8)

To: _____ (name of owner)
(give full address)

In the matter of land expropriated by _____ (expropriating authority) shown on a plan registered in the _____ (registry office) for the registry district of _____ in the County of _____ in the Province of Nova Scotia on the ____ day of _____, 19__ as No. _____.

The expropriating authority pursuant to Section [subsection] 11(5) of the Expropriation Act, Chapter 7, Statutes of Nova Scotia, 1973, hereby requests the following information relating to the interest in land expropriated:

(listed information requested)

Dated at _____ this _____ day of _____, 19__.

name of expropriating authority

signature of officer or agent of
expropriating authority

Form 2—Declaration of Amendment
the Expropriation Act, 1973
(Regulation [Expropriation Procedures Regulations, S.] 9)

To the Registrar in the registry district of the County of _____.

And in the matter of the abandonment of (a limited interest in) land expropriated by _____ (expropriating authority) and shown on a plan registered in the registry office for the registry district of the _____ (county or district) on the ____ day of _____, 19____, as No. _____.

Whereas compensation for the herein described expropriated lands has not been paid in full;

And whereas it has been found that (part of) the expropriated land is unnecessary for the purposes of the _____ (expropriating authority);

or

And whereas it has been found that a more limited estate or interest in the expropriated land only is required by the _____ (expropriating authority);

Now therefore the _____ (expropriating authority) hereby declares that the land described as follows and outlined in red on the attached plan _____ is abandoned. (Where applicable, describe the more limited estate or interest to be retained by the expropriating authority.)

Dated at _____, this ____ day of _____, 19____.

(name of expropriating authority)

(signature of expropriating authority)

Form 3—Notice of Hearing
the Expropriation Act, 1973
(Regulation [Expropriation Procedures Regulations, S.] 11(1))

(To be served and filed by a claimant claiming compensation.)

Claimant: _____ (give full name and address of claimant)

Respondent: _____ (correct legal description and address of respondent)

1. Take notice that the claimant requires that compensation claimed by him from the respondent with respect to the land described below be determined by the Expropriations Compensation Board.

2. The claimant claims compensation for his interest as:
(description of claimant's interest)
in the following land expropriated by the respondent.
(describe land)

3. The claimant claims compensation for injurious affection to his interest:
(description of claimant's interest)
in the following land expropriated by the respondent.
(describe land)

4. Statement of Claim
(The claimant should set out in this paragraph clearly and concisely in subparagraphs lettered consecutively the amount claimed under paragraph 2 or 3, or both, the basis upon which each claim is calculated and the facts in support of each element of compensation claimed.)

This notice is given by _____ (claimant or solicitors for claimant)

(give full address), _____ County,
Province of Nova Scotia and the address at which documents may be served on me is

(give full address), _____ County,
Province of Nova Scotia.

Dated at _____, this _____ day of _____, 19____.

(claimant or solicitor(s) for claimant)

Form 4—Reply
the Expropriation Act, 1973
(Regulation [Expropriation Procedures Regulations, S.] 12)

(To be served and filed by a respondent where claimant has served a notice of hearing under Regulation [Section] 11.)

Claimant: _____ (give full name and address of claimant)

Respondent: _____ (correct legal description and address of respondent)

1. A certificate of approval for expropriation by the respondent of the land in respect of which the claimant is claiming compensation was issued by:
(correct legal description and address of respondent)
on the _____ day of _____, 19____.

2. A plan of the land was deposited in the Office of the Registrar of Deeds for the registration district of _____ on the _____ day of _____, 19____.

3. The requirements of Section 13 of the Act have been complied with.
or

The requirements of Section 13 of the Act have not been complied with.

4. The respondent admits paragraphs (1, 2, 3, as the case may be) of the claimant's notice of hearing and statement of claim.

5. The respondent says
(set forth the facts which the respondent alleges as grounds for its reply)

6. (To be completed where required under Regulation [Section] 16). The respondent denies that the claimant is entitled to any compensation on the grounds that:
(state the facts or law on which the respondent bases its denial)

This reply is made by _____ (claimant or solicitors for respondent)

(give full address), _____ County,
Province of Nova Scotia and the address at which documents may be served on the respondent is
(give full address), _____ County,
Province of Nova Scotia.

Dated at _____, this _____ day of _____, 19____.

(respondent or solicitor(s) for respondent)

Form 5—Notice of Hearing
the Expropriation Act, 1973
(Regulation [Expropriation Procedures Regulations, S.] 13(1))

(To be served and filed by a respondent requiring compensation to be determined.)

Claimant: _____ (give full name and address of claimant)
Respondent: _____ (correct legal description and address of respondent)

1. Take notice that the respondent requires that the compensation, if any, to be paid by it to the claimant with respect to the land described below be determined by the Expropriations Compensation Board.

2. Compensation, if any, is payable with respect to the claimant's alleged interest in the following land:
(state nature of claimant's alleged interest and describe land)

3. _____ (correct legal description of the approving authority)
on the _____ day of _____, 19____ approved expropriation of the land described in paragraph 2.

4. A plan of the land was deposited in the Office of the Registrar of Deeds for _____ on the _____ day of _____, 19____.

5. The requirements of Section 13 of the Act have been complied with.

or

The requirements of Section 13 of the Act have not been complied with.

6. The claimant may be entitled to compensation for injurious affection to his interest as

_____ in the following land:

(state nature of claimant's alleged interest and describe land)

This notice is given by _____
(respondent)

(claimant or solicitors for

(give full address), _____ County,

Province of Nova Scotia and the address at which documents may be served on the respondent is

(give full address), _____ County,

Province of Nova Scotia.

Dated at _____, this _____ day of _____, 19____.

respondent or solicitor(s) for respondent

Form 6—Statement of Claim

the Expropriation Act, 1973

(Regulation [Expropriation Procedures Regulations, S.] 14(1))

(To be served and filed by a claimant on whom a respondent has served a notice of hearing under Regulation [Section] 13.)

Claimant: _____ (give full name and address of claimant)

Respondent: _____ (correct legal description and address of respondent)

1. This is the statement of claim of the claimant for compensation pursuant to the notice of hearing of the respondent dated _____ day of _____, 19____.

2. The claimant admits paragraphs (1, 2 and 3, as the case may be) of the notice of hearing.

3. The claimant says

(the claimant should set out in this paragraph clearly and concisely in subparagraphs consecutively lettered, the amount claimed in respect of expropriated or injuriously affected or both, the basis upon which each claim is calculated and the facts in support of each element of compensation claimed)

This statement of claim is served by _____ (claimant or solicitor(s) for the claimant) _____ (county) Province of Nova Scotia and the address at which documents may be served on me is _____ (give full address) _____ (county) Province of Nova Scotia.

Dated at _____, this _____ day of _____, 19____.

(claimant or solicitor(s) for claimant)

Form 7—Reply
the Expropriation Act, 1973
(Regulation [Expropriation Procedures Regulations, S.] 15)

(To be served on the respondent when the claimant has filed a statement of claim under Regulation [Section] 14.)

Claimant: _____ (give full name and address of claimant)

Respondent: _____ (correct legal description and address of respondent)

is claimed.

1. This is the reply of the respondent to the statement of claim of the claimant dated the _____ day of _____, 19____.

2. The respondent admits paragraphs (1, 2 and 3, as the case may be) of the statement of claim.

3. The respondent says
(set forth clearly and concisely in paragraphs numbered consecutively the facts which the respondent alleges in reply to the statement of claim)

4. (To be completed where required under Rule 8.) The respondent denies that the claimant is entitled to any compensation on the grounds that:
(state the facts and specify any statutory enactments upon which the respondent basis its denial)

This reply is made by _____ (respondent or solicitor(s) for the respondent) _____ (county) Province of Nova Scotia and the address at which documents may be served on the respondent is _____ (give full address) _____ (county) Province of Nova Scotia.

Dated at _____, this _____ day of _____, 19____.

(respondent or solicitor(s) for respondent)

Form 8—Certificate of Readiness
the Expropriation Act, 1973

(Regulation [Expropriation Procedures Regulations, S.] 20(1))

In the matter of the Expropriation Act, 1973

Between:
Claimant
and
Respondent

Certificate of Readiness

The undersigned do hereby certify to the Board that this hearing will be ready for hearing _____ and estimate that the bearing will last ____ days. This estimate is given to assist the Board on setting aside what appears to be sufficient time for the hearing.

Dated at _____, this _____ day of _____, 19____.

claimant or solicitor(s) for claimant

respondent or solicitor(s) for respondent

Form 9—Summons to a Witness
the Expropriation Act, 1973
(Regulation [Expropriation Procedures Regulations, S.] 25)

Between:
Claimant
and
Respondent

To:

You are hereby summoned and required to attend before the Expropriations Compensation Board at a hearing to be held at
in the _____ of _____ on the _____ day of _____,
19____ at the hour of _____ o'clock in the _____ noon (local time) and so from day to day until the hearing is concluded or the Board otherwise orders, to give evidence on oath touching the matters in question in the proceedings and to bring with you and to produce at such time and place the following documents and things:

If you fail to attend and give evidence at the hearing, or to produce the documents and things specified, at the time and place specified, without lawful excuse, you are liable to punishment by the Supreme Court in like manner as if in contempt of that court for disobedience to a subpoena.

Dated at _____, this _____ day of _____, 19____.

Expropriations Compensation Board:

clerk