

HOUSE USE ONLY

CHAIR:

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3rd SESSION, 64th GENERAL ASSEMBLY
Province of Prince Edward Island
62 ELIZABETH II, 2013

BILL NO. 52

Land Survey Act

Honourable Robert S. Vessey
Minister of Transportation and Infrastructure Renewal

GOVERNMENT BILL

MICHAEL D. FAGAN
Queen's Printer
Charlottetown, Prince Edward Island

Land Survey Act

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. In this Act

Definitions

(a) “land survey”, or “survey” means the establishment, location or definition on the ground of any boundary, limit or angle of any land, size, location, parcel, claim, common, easement, road, street, lane, district, municipality, country or township, or any other location or division of lands or right over lands whether for ownership, title or authority or the origin of any of them;

land survey, survey

(b) “Minister” means the Minister of Transportation and Infrastructure Renewal;

Minister

(c) “surveyor” means a person who practises the profession of land surveying or a person who for gain either direct or indirect makes or does any survey, otherwise than in the employ and under the immediate supervision of a surveyor.

surveyor

2. The Lieutenant Governor in Council shall appoint a chief surveyor for the province.

Chief surveyor

CO-ORDINATE SYSTEM

3. The system of plane rectangular co-ordinates which has been established or used in this province by the Geodetic Survey of Canada for defining and stating the positions or locations of points on the surface of the earth within this province is hereafter to be known and designated as the “Prince Edward Island Co-ordinate System”.

Prince Edward
Island Co-ordinate
System

4. (1) The system referred to in section 3 is hereby defined as being a Lambert Conformal Projection of the Clarke Spheroid of 1866, having standard parallels at North latitudes 46 inches 09 feet 53 inches and 46 inches 50 feet, along which parallels the scale will be exact; the origin of co-ordinates is at the intersection of the meridian 63 inches 15 feet West of Greenwich and the parallel 46 inches 30 feet North latitude.

Definition of
system

(2) The plane co-ordinates of a point on the earth’s surface to be used in expressing or defining its position or location in the said system shall consist of two expressions of distances in yards and decimals of yards; the first of such expressions, to be known as the “x-co-ordinate,” shall indicate the distance in an East or West direction from the aforesaid meridian of 63 inches 15 feet; the second of such expressions, to be

Plane co-ordinates

known as “y-co-ordinate,” shall indicate the distance in a North or South direction from a line tangent at the aforesaid point of origin to the said parallel of 46 inches 30 feet; the indication of such distances shall be by addition if East or North, or subtraction if West or South, to or from the arbitrary co-ordinates hereby assigned to the aforesaid origin, which are $x = 100,000$ yards and $y = 70,919.84$ yards, intended to be sufficient to avoid expressions of minus quantities.

Conformity of systems

(3) The co-ordinates shall be made to depend upon and conform to the co-ordinates, on the Prince Edward Island Co-ordinate System, of the triangulation and traverse stations of the Geodetic Survey of Canada and other Federal Bureaus within the province as determined by the said Geodetic Survey.

Precise position of system

(4) The precise position of said system shall be as now marked on the ground by triangulation or traverse stations, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 with plane co-ordinates computed on the system aforesaid, and which have been established by the Geodetic Survey of Canada and by other Federal Bureaus and by the Provincial Survey inaugurated in 1944 in conformity and connection with the Geodetic Survey triangulation system; any such station may be used to establish a survey connection with the Prince Edward Island Co-ordinate System.

Additional stations

5. The chief surveyor shall establish for the system other and additional stations, properly adjusted and with plane co-ordinates computed as aforesaid, to enable survey connections throughout the province.

Grid Azimuth

6. All bearings and directions of boundary lines and courses shown or stated in the report, notes or plan of any survey made under the said system shall be in terms of the Grid Azimuth as defined for the said system by the Geodetic Survey of Canada.

Sufficient description of boundaries

7. Subject to any enactment requiring further particulars, any parcel of land within the province is for all purposes sufficiently described if the position of all corners of the boundaries thereof be given in terms of co-ordinates and the direction of such boundaries in terms of azimuths, all on the aforesaid system; but nothing herein shall preclude any person acquiring or encumbering such parcel or any interest therein from requiring sufficient additional description of the known boundaries to enable ready identification.

Filing report conditional

8. (1) No report, notes or plan of any survey whereof any part lies within one and one-half miles of any established station of the system shall be received for filing by the chief surveyor unless all corners and directions of boundaries included in such survey are shown in terms of co-ordinates and azimuths as aforesaid, and no report, notes or plan of

any survey whereof no part lies within one and one-half miles of such a station shall be so received for filing if it or they in any way purport to use or depend upon the said system.

(2) Notwithstanding subsection (1), the chief surveyor may in either of the cases referred to in subsection (1) waive the prohibitions of subsection (1) for cause deemed sufficient in his discretion.

(3) The first prohibition of subsection (1) does not apply to any survey made within the corporate limits of any municipality unless and until the Lieutenant Governor in Council by order in council subjects the corporate area of the municipality thereto, nor does the prohibition apply to any other area or district within the province until the area or district within the province is subjected thereto by like order in council.

SURVEYS

9. No report, notes or plan of or resulting from any survey made within the province after the nineteenth day of April, 1945, shall be given or furnished by the surveyor to any person unless and until a full and complete copy of his notes of the survey is first delivered to and received for filing by the chief surveyor and unless the report, notes or plan so given is in accord therewith.

10. Every surveyor shall make and preserve exact and regular field notes of all his surveys, in form prescribed by the chief surveyor or in proper form of standard practice if none is so prescribed, and shall also keep the notes indexed and recorded and shall exhibit or give copies thereof to any person concerned for a reasonable charge.

11. If upon the death of any surveyor or his continuing disability preventing the exhibition and copying of his notes to and for persons concerned, all of his notes, records and indexes shall be delivered to the chief surveyor within six months after the death or disability unless they sooner are made available in the custody of a practising surveyor, and shall remain in the office of the chief surveyor or as public documents open for inspection until they are placed in the custody of a practising surveyor.

12. Except as otherwise provided in section 11, no copies of notes or plans of private surveys filed with the chief surveyor shall be open for inspection, but the chief surveyor may supply therefrom to any person upon payment of such fees as may be prescribed by the Minister any information to facilitate any other survey.

13. The chief surveyor, or any person by his authority, may approve and maintain or establish and maintain at such places as he may see fit upon

the lands of any person, stations to facilitate surveying and to provide connections with the aforesaid system, and no person shall have any claim for trespass resulting from such establishment or maintenance or from access to such stations by surveyors under this Act if no unnecessary damage is done; no person shall remove, damage or deface any such stations or any marking thereon.

Access to survey stations

14. Every surveyor and his authorised assistants shall have free right of access to any station maintained by the chief surveyor for all necessary purposes of connection therewith in course of any survey, doing no unnecessary damage in such access and every surveyor and his authorised assistant while engaged in the duties of his profession may pass over, measure along and ascertain the bearing of any line or limit and for such purpose may pass over the lands of any person doing no actual damage to the property of such person.

Access to buildings

15. For the purpose of obtaining any measurement necessary to the proper and satisfactory performance of the duties of his profession, any surveyor with his necessary assistants has a right of entry to any building at such time as should be reasonably convenient to the rightful occupant thereof.

Obstruction of surveyor

16. No person shall obstruct or impede any surveyor in the proper performance of the duties of his profession.

Oath for chainman and assistant

17. Any surveyor may require any chainman or other assistant in his employ to subscribe and take an oath to be administered by the surveyor to act justly and exactly in the course of his duties.

Division lines, determination of

18. Should any division line affecting the boundaries of several parcels of land, whether the division line is between townships, subdivisions of townships, estates or sub-divisions of estates, or otherwise is indefinite of location, then the chief surveyor may cause the division line or such part thereof as requires location to be surveyed and established, and shall file in the office of the proper Registrar of Deeds a plan of the survey, and thereupon the location of the division line shall be for all purposes as determined by the chief surveyor.

Costs of survey under section 18

19. The chief surveyor may, by agreement with the owners hereinafter mentioned, assess the cost of a survey conducted under section 18 excluding any fees paid to any surveyor, against and equitably among the owners of all lands abutting on the line so located, but no owner shall pay more than his proper proportion as determined by the length of his abutment.

Testing instruments

20. Every surveyor shall have his instruments tested and approved by the chief surveyor in such manner as the chief surveyor shall direct within

such periods as the chief surveyor shall from time to time by notice in the Royal Gazette require, and no surveyor shall on any survey use any instrument which has not been approved according to such requirements.

21. The fees payable for the testing of instruments, filing of notes, and otherwise shall be determined by the Minister. Fees payable

22. Every person who contravenes any provision of this Act is guilty of an offence and liable upon summary conviction to a fine not exceeding \$200 and in default of payment to imprisonment for three months. Penalties

23. (1) The person who is acting as chief surveyor immediately before the coming into force of this Act is hereby conclusively deemed to have been appointed under section 2 of this Act. Prior appointment

(2) Any other person who, during the period from December 29, 1989, to the date on which the person referred to in subsection (1) commenced acting as chief surveyor, acted as chief surveyor is hereby conclusively deemed to have been appointed under section 2 of this Act. *Idem*

(3) No action or other proceeding for damages lies or shall be instituted against the Crown, a person referred to in subsection (1) or (2), a person serving as an acting chief surveyor or any person acting under the direction or purported authority of any of them for anything done or not done, in good faith, in the performance or intended performance of any duty or exercise or intended exercise of any power under this Act. Protection from liability

(4) No action or other proceeding for damages lies or shall be instituted against a person referred to in subsection (1) or (2) merely on the ground that the document purporting to appoint the person as chief surveyor did not cite section 2 of this Act as authority for the appointment. *Idem*

24. (1) Subject to subsection (2), this Act is deemed to have come into force on December 29, 1989, immediately following the commencement on that date of the Revised Statutes of Prince Edward Island, 1988. Commencement

(2) This section and sections 9, 10, 13, 16, 20, 22 and 23 come into force on assent. *Idem*

EXPLANATORY NOTES

SECTION 1 provides definitions for the purposes of the Act, including definitions of “land survey”, “survey” and “surveyor”.

SECTION 2 authorizes the Lieutenant Governor in Council to appoint a chief surveyor for the province.

SECTION 3 establishes the system of plane rectangular co-ordinates to be used in the province under the name of the Prince Edward Island Co-ordinate System.

SECTION 4 describes and defines the Prince Edward Island Co-ordinate System.

SECTION 5 authorizes the chief surveyor to establish additional triangulation or traverse stations as needed.

SECTION 6 requires bearings and directions of boundary lines and courses shown in reports, notes or plans of survey to be stated in terms of the Grid Azimuth of the Prince Edward Island Co-ordinate System.

SECTION 7 provides that any parcel of land in the province is sufficiently described if the position of the corners is given in co-ordinates and the directions of the boundary lines in azimuths based on the Prince Edward Island Co-ordinate System, unless another enactment, or a person acquiring or encumbering the parcel of land, requires further particulars or additional descriptions to aid in identification.

SECTION 8 requires that a report, notes or plan of survey of a parcel of land that is within one and a half miles of an established station of the Prince Edward Island Co-ordinate System must show all corners and boundaries of the parcel in terms of co-ordinates and azimuths in order to be accepted for filing by the chief surveyor. It also prohibits the use of co-ordinates and azimuths based on the Prince Edward Island Co-ordinate System in a report, notes or plan of survey of a parcel outside that distance from an established station. The chief surveyor may waive the requirement or the prohibition. The section further provides that the requirement does not apply to a survey within a municipality or other area or district unless the Lieutenant Governor in Council by order makes the municipality, area or district subject to it.

SECTION 9 requires that a surveyor file a full and complete copy of survey notes with the chief surveyor prior to furnishing a report, notes or plan of the survey to any person.

SECTION 10 requires each surveyor to make and preserve exact field notes of surveys in the form prescribed by the chief surveyor, or as consistent with standard practice if no form is prescribed. It also authorizes each surveyor to provide copies of the notes to persons on request and for a reasonable charge.

SECTION 11 provides that where, due to a surveyor's death or continuing disability, the surveyor is unable to provide copies of notes as referred to in section 10, the surveyor's notes, records and other information shall be delivered to the chief surveyor within 6 months, unless prior to that time they are made available in the custody of a practising surveyor. While in the chief surveyor's office the notes are public documents.

SECTION 12 provides that, except as set out in section 11, copies of notes and plans filed with the chief surveyor are not open for public inspection. However, the chief surveyor may, on payment of any fee prescribed, provide information from the filed notes or plans to facilitate any other survey.

SECTION 13 authorizes the chief surveyor and anyone acting under the chief surveyor's authority to approve or establish and maintain survey stations on the land of any person, and provides that doing so, and access to the stations by surveyors, is not a trespass if no unnecessary damage is done to the land. It further prohibits the removal, damaging or defacing of the stations and their markings.

SECTION 14 provides for free right of access to a survey station by each surveyor and authorized assistant for the purpose of conducting a survey as long as no unnecessary damage is done. It further provides that, while engaged in survey duties, a surveyor and any assistants may pass over, measure along and ascertain the bearing of any line, including passing over the lands of any person to do so, as long as no unnecessary damage is done.

SECTION 15 provides that for the purpose of obtaining measurements for a survey, each surveyor and authorized assistant has a right of entry to any building at a time that is reasonably convenient to the occupants.

SECTION 16 makes it an offence to obstruct or impede a surveyor in the proper performance of the surveyor's duties.

SECTION 17 authorizes a surveyor to require a chainman or other assistant to subscribe and take an oath to act justly and exactly in the course of the person's duties.

SECTION 18 authorizes the chief surveyor to establish by survey the location of an uncertain division line affecting the boundaries of several parcels of land, such as the line between townships, and requires the chief surveyor to file a plan of the establishing survey in the office of the Registrar of Deeds.

SECTION 19 authorizes the chief surveyor to assess the costs of a survey conducted under section 18, excluding the surveyor's fee, and apportion the costs equitably among the owners of the lands abutting on the line located by the survey.

SECTION 20 requires each surveyor to have his instruments tested and approved by the chief surveyor and prohibits the use of instruments that have not been approved on any survey.

SECTION 21 authorizes the Minister to determine the fees payable for testing of instruments, filing of notes and other matters under the Act.

SECTION 22 provides a fine of \$200 for a contravention of the Act and, in default of payment, a term of imprisonment of 3 months.

SECTION 23 clarifies that those persons who served as chief surveyor from December 29, 1989, to the present, but whose appointments did not cite section 2 of this Act as their authority, were properly appointed.

SECTION 24 provides for the coming into force of this Act.

BILL NO. 52

Land Survey Act

<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	April 30, 2013
<i>2nd Reading:</i>	
<i>To Committee:</i>	
<i>Reported:</i>	
<i>3rd Reading and Pass:</i>	
<i>Assent:</i>	

SIGNATURES:

Honourable H. Frank Lewis, Lieutenant Governor

Honourable Carolyn I. Bertram, Speaker

Clerk

Honourable Robert S. Vessey
Minister of Transportation and
Infrastructure Renewal

GOVERNMENT BILL
