



HOUSE USE ONLY

CHAIR:

WITH / WITHOUT

2nd SESSION, 66th GENERAL ASSEMBLY
Province of Prince Edward Island
1 CHARLES III, 2022

(Bill No. 82)

Land Survey Act

Hon. Cory Deagle
Minister of Transportation and Infrastructure

GOVERNMENT BILL

Andrea MacRae
Acting Queen's Printer
Charlottetown, Prince Edward Island

**For House
Use Only**

**Prince Edward Island
Legislative Assembly**

ASSEMBLY / SESSION / YEAR
66th General Assembly / 2nd / 2022

AMENDMENTS

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TITLE: Land Survey Act

| # | SECTION | AMENDMENT | DATE |
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COMMITTEE CLERK **CHAIR, IN COMMITTEE**



LAND SURVEY ACT

BILL NO. 82

2022

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

PART I - DEFINITIONS

1. Definitions

In this Act,

- (a) **“Chief Surveyor”** means the Chief Surveyor appointed under section 3;
- (b) **“Coordinate System”** means the Prince Edward Island Coordinate System established and maintained for the province by the Chief Surveyor pursuant to section 4;
- (c) **“former Act”** means the *Land Survey Act* R.S.P.E.I. 1988, Cap. L-2.1;
- (d) **“land survey”** or **“survey”** means a land survey or survey as defined in the *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3.1;
- (e) **“marker”** means a metal pipe or pin placed by a surveyor as a survey marker;
- (f) **“Minister”** means the Minister of Transportation and Infrastructure;
- (g) **“station”** means a survey control station or a monument, and includes an active or passive reference station or a sign denoting a point of reference or elevation;
- (h) **“surveyor”** means a person authorized pursuant to the *Land Surveyors Act* to practise as a surveyor.

PART II - ADMINISTRATION

2. Minister responsible

The Minister is responsible for the administration of this Act.

3. Appointment of Chief Surveyor

- (1) The Lieutenant Governor in Council shall, on the recommendation of the Minister, appoint a surveyor as the Chief Surveyor for the province.

Responsibilities of the Chief Surveyor

- (2) The Chief Surveyor shall
- (a) establish and maintain the Coordinate System in accordance with this Act and the regulations;
 - (b) ensure sufficient additional stations are maintained to enable survey connections throughout the province, in accordance with section 5;
 - (c) review and confirm the coordinated position of a new station, in accordance with section 5;
 - (d) recommend to the Minister any necessary amendments to the Coordinate System or the adoption of a new coordinate system;
 - (e) provide direction to a surveyor respecting a survey of lands owned by the Government; and
 - (f) undertake other duties specified by the Minister.

PART III - PRINCE EDWARD ISLAND COORDINATE SYSTEM

4. Coordinate System

- (1) The Chief Surveyor shall establish and maintain a system of plane rectangular coordinates and a vertical reference system for locating points on the earth's surface within the province, to be known as the Prince Edward Island Coordinate System.

Regulations

- (2) The Lieutenant Governor in Council may make regulations setting out the specifications of the Coordinate System.

5. Additional stations

- (1) The Chief Surveyor shall ensure a sufficient system of additional stations, properly adjusted and with plane coordinates calculated in accordance with the Coordinate System, is established and maintained to enable survey connections throughout the province.

Establishment of new station

- (2) A new station shall be established only by a surveyor in accordance with the specifications and instructions of the Chief Surveyor.

Submission by surveyor

- (3) A surveyor who establishes a new station shall submit the surveyor's observations, notes and other data, and table of coordinated values, in the form required by the Chief Surveyor to the Chief Surveyor for confirmation.

Confirmation by Chief Surveyor

- (4) The Chief Surveyor shall review the information submitted by the surveyor under subsection (3) and may confirm the coordinated position of the new station as an integral part of the Coordinate System.

Prohibition

- (5) No person shall wilfully damage, deface or displace a marker or station.

Exception

- (6) No person except a surveyor shall move or remove a marker or station.

PART IV - SURVEYS**6. Requirements for plan of survey**

- (1) On a plan of survey, a surveyor shall set out the bearings of a boundary line in terms of grid azimuth as expressed to the nearest second and distances expressed in metres to the thousandth of a metre, in accordance with the Coordinate System.

Imperial measurements

- (2) On a plan of survey, a surveyor may show distances expressed in Imperial measurements in addition to the metric measurements required under subsection (1).

Coordinates

- (3) On a plan of survey, a surveyor shall set out all coordinates expressed in metres to the thousandth of a metre in accordance with the Coordinate System.

7. Conformity with Coordinate System

- (1) Subject to subsection (2), a surveyor shall ensure that a plan of survey showing legal parcel boundaries
- (a) uses coordinates calculated in accordance with the Coordinate System; or
 - (b) is referenced to the Coordinate System by means of an active or passive reference station.

Exception

- (2) The Chief Surveyor may, on application by a surveyor, waive the requirements of subsection (1)
- (a) for a survey that crosses the boundary of another province that uses a different coordinate system; or
 - (b) where there is a failure or malfunction of one or more reference stations in the Coordinate System.

Non-application

- (3) For greater certainty, subsection (1) does not apply to a survey conducted under
- (a) the *Mineral Resources Act* R.S.P.E.I. 1988, Cap. M-7;
 - (b) the *Oil and Natural Gas Act* R.S.P.E.I. 1988, Cap. O-5; or
 - (c) the *Canada Lands Surveys Act*.

8. Sufficient description of boundaries

- (1) Subject to an enactment that requires more particulars, a parcel of land in the province is sufficiently described for all purposes if the position of all corners of the boundaries of the parcel are expressed in coordinates and the direction of the boundaries is expressed in azimuths based on the Coordinate System.

Exception

- (2) Subsection (1) does not preclude a person who acquires or encumbers a parcel of land or an interest in it from requiring additional descriptions of the boundaries to enable identification.

9. Filing of plan of survey

A surveyor, or a planning board appointed by a council of a municipality pursuant to section 9 of the *Planning Act* R.S.P.E.I. 1988, Cap. P-8, shall file, in the office of the appropriate Registrar of Deeds in accordance with the *Registry Act* R.S.P.E.I. 1988, Cap. R-10, each final or revised plan of survey prepared by the surveyor for the purpose of

- (a) tracing a boundary line;
- (b) subdividing land;
- (c) creating an easement or right of way;
- (d) placing a marker; or
- (e) fulfilling a statutory requirement of the province or a requirement of a municipal bylaw.

10. Inspection of notes, etc.

Where, prior to the coming into force of this Act, a surveyor's notes, plans of survey or other information have been filed with the Chief Surveyor, the Chief Surveyor may provide access to the notes, plans or information to any person on payment of the fee specified in the regulations.

11. Access to stations

- (1) A surveyor and the surveyor's assistant, for all necessary purposes in the course of a survey,
- (a) may enter on private property to obtain access to a passive or active reference station maintained by the Chief Surveyor;
 - (b) may enter a building at a time that is convenient to the occupier of the building; and
 - (c) may pass over, measure along and ascertain the bearing of any boundary line or limit.

Unnecessary damage prohibited

- (2) A surveyor and the surveyor's assistant shall do no unnecessary damage in the course of a survey.

Access by Chief Surveyor

- (3) The Chief Surveyor and assistants
- (a) may enter on public or private property for the purposes of this Act; and
 - (b) may establish, maintain and have access to stations and markers on public or private property as the Chief Surveyor considers necessary.

No right of action

- (4) Where no damage is done, no person has a right of action
- (a) for trespass or damage as a result of anything done by the Chief Surveyor, a surveyor or an assistant in the course of a survey; or
 - (b) for the establishment, maintenance or use of the Coordinate System.

Obstruction of surveyor

- (5) No person shall obstruct or impede a surveyor in the proper performance of the surveyor's duties.

PART V - DETERMINING DIVISION LINES**12. Division lines**

- (1) Where a division line affecting the boundaries of provincial lots or counties is not definitely located, the Chief Surveyor may cause the division line or any part of it to be surveyed and established.

Plan of survey to be filed

- (2) The Chief Surveyor shall, if satisfied that the location of the division line has been sufficiently established by the survey conducted pursuant to subsection (1), file in the appropriate Registry Office a plan of the survey.

Location established

- (3) On the filing of the plan of survey of a division line under subsection (2), the location of the division line shall be for all purposes as shown on the plan of survey.

PART VI - OFFENCES AND PENALTIES, LIABILITY**13. Offences, penalties**

A person who contravenes a provision of this Act or the regulations is guilty of an offence and liable on summary conviction to

- (a) a fine of not less than \$1,000 and not more than \$5,000;
- (b) a term of imprisonment not to exceed 30 days; or
- (c) to both a fine in accordance with clause (a) and a term of imprisonment in accordance with clause (b).

14. Protection from liability

No action or other proceeding for damages lies or shall be instituted against the Government, the Minister, the Chief Surveyor, a previous 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 or the former Act.

PART VII - REGULATIONS**15. Regulations**

The Lieutenant Governor in Council may make regulations

- (a) respecting the Coordinate System;
- (b) respecting standards applicable to surveys;
- (c) respecting the recording of a survey of land owned by the Government;

- (d) respecting stations and markers, including preferred uses of different types of stations and markers in specified circumstances, rules respecting establishment and maintenance of stations and markers, requirements for reporting damage to stations and markers;
- (e) respecting fees for the purposes of section 10; and
- (f) respecting any matter that the Lieutenant Governor in Council considers necessary for the administration of this Act.

PART VIII - TRANSITIONAL PROVISIONS

16. Continuation of appointment

The appointment under section 2 of the former Act of a person as Chief Surveyor that is valid and in force on the coming into force of this Act continues in force according to its terms and is deemed to be an appointment under section 3 of this Act.

PART IX - CONSEQUENTIAL AMENDMENTS, REPEAL AND COMMENCEMENT

17. Land Surveyors Act

- (1) **The *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3.1, is amended as provided by this section.**
- (2) **The heading immediately preceding section 16 is amended by the addition of the words “AND DUTIES” after the word “POWERS”.**
- (3) **The Act is amended by the addition of the following after section 16:**

16.1 Field notes

- (1) A surveyor shall make and preserve exact and regular field notes that conform to professional standards, whether in written or electronic form, of all surveys made by the surveyor.

Indexing, copies

- (2) A surveyor shall ensure that the surveyor’s field notes are properly indexed and recorded, and shall permit access to the field notes, records or indexes, or provide copies of them, to any person concerned on payment of a reasonable fee.

16.2 Death of surveyor

- (1) On the death of a surveyor, the surveyor’s field notes, records and indexes shall be delivered to a practising land surveyor at the direction of the Council, to be kept by that surveyor in accordance with subsection 16.1(2), either
 - (a) by the surveyor’s personal representative; or
 - (b) by another person on behalf of the surveyor.

Continuing disability of surveyor

- (2) In the event of the continuing disability of a surveyor, the surveyor's field notes, records and indexes may be delivered to a practising land surveyor at the direction of the Council, to be kept by that surveyor in accordance with subsection 16.1(2), either
- (a) by the surveyor; or
 - (b) by another person on behalf of the surveyor.

Delivery to surveyor not practicable

- (3) Where the Council determines that delivery to a practising land surveyor in accordance with subsection (1) or (2) is not practicable, Council may direct the personal representative, surveyor or other person, as the case may be, to deliver the field notes, records and indexes to the Chief Surveyor appointed pursuant to the *Land Survey Act* R.S.P.E.I. 1988, Cap. L-2.2.

Examination

- (4) Field notes, records and indexes of a surveyor that have been delivered
- (a) in accordance with subsection (1) or (2) may be examined, and copies may be obtained, by any person concerned in the same manner as set out in subsection 16.1(2); and
 - (b) in accordance with subsection (3), may be examined, and copies may be obtained, by any person in the same manner as set out in section 10 of the *Land Survey Act*.

No public inspection

- (5) Except as otherwise provided in this section and section 10 of the *Land Survey Act*, notes and plans of private surveys are not open to inspection by the general public.

18. Oil and Natural Gas Act

- (1) **The *Oil and Natural Gas Act* R.S.P.E.I. 1988, Cap. O-5, is amended as provided by this section.**
- (2) **Subsection 100(2) of the Act is repealed.**

19. Repeal

The *Land Survey Act* R.S.P.E.I. 1988, Cap. L-2.1, is repealed.

20. Commencement

This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

(Bill No. 82)

Land Survey Act

| <i>STAGE:</i> | <i>DATE:</i> |
|------------------------------|------------------|
| <i>1st Reading:</i> | November 1, 2022 |
| <i>2nd Reading:</i> | |
| <i>To Committee:</i> | |
| <i>Reported:</i> | |
| <i>3rd Reading and Pass:</i> | |
| <i>Assent:</i> | |

SIGNATURES:

Honourable Antoinette Perry, Lieutenant Governor

Honourable Colin LaVie, Speaker

Joseph Jeffrey, Clerk

Hon. Cory Deagle
Minister of Transportation and Infrastructure

GOVERNMENT BILL

2022
2nd SESSION, 66th GENERAL ASSEMBLY