



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

INVESTIGATION OF TITLES ACT

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this Act, current to November 1, 2003. It is intended for information and reference purposes only.

This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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INVESTIGATION OF TITLES ACT

CHAPTER I-10

1. Definitions

In this Act

- (a) “**claim**” means a right, title, interest, claim or demand of any kind or nature whatsoever affecting land set forth in, based upon or arising out of a registered instrument, and, without limiting the generality of the foregoing, includes mortgages, liens, easements, agreements, contracts, options, charges, annuities, leases and restrictions as to use of land or other encumbrance affecting land, but does not include a highway, public lane, unregistered right of way or other easement or right that a person is openly enjoying and using or any claim imposed by any statutory enactment;
- (b) “**instrument**” includes a Crown grant, order in council of Canada or of Prince Edward Island, deed, conveyance, mortgage, assignment of mortgage, certificate of satisfaction or discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney under which any instrument is executed, bond or agreement for the sale or purchase of land, will, probate of will, grant of administration, municipal bylaw, certificate or order as a result of proceedings in any court, judgment or order of foreclosure, and includes every other certificate of judgment or order of any court affecting any interest in or title to land, every sheriff’s deed of land sold by virtue of his office, every contract in writing, every order and proceeding in mental incompetency, bankruptcy and insolvency, every plan of a survey or subdivision of land, and every other instrument whereby land may be transferred, disposed of, charged, encumbered or affected in any wise, affecting land in Prince Edward Island;
- (c) “**land**” includes lands, tenements, hereditaments and appurtenances and any estate or interest therein;
- (d) “**owner**” means a person entitled to a freehold or other estate or interest in land at law or in equity, in possession, in futurity or in expectancy. *R.S.P.E.I. 1974, Cap. I-7, s.1; 1978, c.6, s.62.*

2. Title for forty years

- (1) No person in dealing with land is required to show that he is lawfully entitled to the land as owner thereof through a good and sufficient chain of title, save and except during the period of forty years immediately preceding the date of such dealing as aforesaid, and no claim that has been in existence longer than the forty-year period affects the land, unless the claim has been acknowledged or specifically referred to or contained in an instrument registered against the land within the forty-year period or unless a notice is registered against the land as provided in sections 3, 4, 5 and 6.

Quieting Titles Act

- (2) Subsection (1) does not apply to land with respect to which a certificate of title has been given under the *Quieting Titles Act* R.S.P.E.I. 1988, Cap. Q-2 within the forty-year period mentioned in subsection (1).

No notice necessary in certain cases

- (3) Where a person is shown by the books of a registry office to be the owner of a freehold or leasehold estate in land or of an equity of redemption therein prior to any forty-year period and is continuously shown on the books from time to time during the forty-year period and thereafter as the owner of either a freehold or leasehold estate in the same land or of an equity of redemption therein or any of them, that person's claim to the land is not affected by failure to register the notice as required by subsection (1). *R.S.P.E.I. 1974, Cap. I-7, s.2; 1978, c.6, s.62.*

3. Form of notice and affidavit

A notice of claim may be in Form 1 in the schedule in duplicate and shall be verified by the affidavit of the claimant or of his agent or assignee having personal knowledge of the matters required to be verified, which affidavit may be in Form 2 in the schedule. *R.S.P.E.I. 1974, Cap. I-7, s.3.*

4. Registering notice of claim

A person having a claim against land, or a person on his behalf, may within forty years from the date of the registration of an instrument in which the claim is acknowledged, set forth, or referred to, or on which the claim is based, or out of which the claim arises, register a notice of the claim in the manner set out in section 3, and such registration constitutes a notice of the claim for a further period of forty years. *R.S.P.E.I. 1974, Cap. I-7, s.4.*

5. Re-registration

Before a notice expires, it may be registered and so on from time to time as long as the person registering the notice or a person claiming under him considers it necessary and every re-registered notice continues in force for forty years from the date of the registration thereof. *R.S.P.E.I. 1974, Cap. I-7, s.4.*

6. Registration after period expired

Notwithstanding sections 4 and 5, any person having a claim against land which by the provisions of this Act would have expired, may register notice of the claim at any subsequent time if there has been no intermediate registered dealing with the land, and such registration has the same effect as if done within the time limited by sections 4 and 5. *R.S.P.E.I. 1974, Cap. I-7, s.6.*

7. Registration not to validate expired claim

The registration of a notice as provided in sections 3, 4, 5 and 6 does not in any way validate a claim that has otherwise expired. *R.S.P.E.I. 1974, Cap. I-7, s.7.*

8. Fees

The registrar is entitled to a fee of \$3 for registering the notice referred to in sections 3, 4, 5 and 6. *R.S.P.E.I. 1974, Cap. I-7, s.8.*



9. Act to prevail over other provisions

The provisions of this Act may have effect notwithstanding any statute or any rule made under the authority of a statute or any rule of law, and, where there is any conflict between the provisions of this Act and any such statute, rule or rule of law, the provisions of this Act prevail. *R.S.P.E.I. 1974, Cap. I-7, s.9.*

SCHEDULE

*FORM 1**

NOTICE OF CLAIM TO BE REGISTERED UNDER THE INVESTIGATION OF TITLES ACT

WHEREAS, by an instrument dated on the _____ day of _____ 20____,
_____ did _____ the lands and premises
therein described to _____ heirs and assigns for
securing the payment of _____ and there is now owing upon the
said _____ the sum of _____ particulars of which are as
follows:

DESCRIPTION OR PARCEL NUMBER OF LANDS AFFECTED:

IN WITNESS WHEREOF the said _____ has
hereunto set his hand and seal the _____ day of _____ 20_____.

SIGNED, SEALED AND DELIVERED
in the presence of

*{Note: Form 1 is prescribed by section 3}

FORM 2*

AFFIDAVIT VERIFYING CLAIM

I _____ of the _____ of _____ in the County of _____ the claimant (or agent of the claimant) in the foregoing notice make oath and say:

(1) The foregoing (or annexed) notice truly sets forth the terms or substance of the agreement entered into between _____ and _____ and sets forth the amount now owing by the said _____ to the said _____ who now resides at _____.

SWORN AT _____)

in _____ County in the said)

Province of Prince Edward Island)

this _____ day of _____) _____

20_____ before me)

_____) _____

A Commissioner in _____)

County for taking affidavits in the)

Supreme Court.)

On the _____ day of _____ 20_____, personally appeared before me

_____ of _____ in _____ County

and being duly sworn and testified that he is a subscribing witness to the within Notice of Claim or writing and that he was present and did see the same duly executed by the claimant therein named.

Commissioner

*{Note: Form 2 is prescribed by section 3}

