



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

**PRINCE EDWARD ISLAND LANDS
PROTECTION ACT
LAND IDENTIFICATION REGULATIONS**

PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to January 1, 2015. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

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PRINCE EDWARD ISLAND LANDS PROTECTION ACT
Chapter L-5

LAND IDENTIFICATION REGULATIONS

Pursuant to clause 17(1)(d) of the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5, Council made the following regulations:

1. Definitions

In these regulations

- (a) “**Act**” means the *Prince Edward Island Lands Protection Act* R.S.P.E.I. 1988, Cap. L-5;
- (a.1) “**Commission**” means the Island Regulatory and Appeals Commission;
- (b) “**non-development use**” means use for purposes, including forestry, wildlife, agriculture, recreation, permanent or seasonal residence, that do not involve commercial or industrial development or subdivision;
- (c) “**purchaser**” means a purchaser of land in a case referred to in section 2. (EC606/95; 708/95)

2. Application of land identification program

The land identification program established by these regulations applies to the acquisition of land in the following cases:

- (a) where land is to be acquired by a person who is not a resident person or by a corporation and pursuant to the powers conferred on the Lieutenant Governor in Council by section 9 of the Act, the Lieutenant Governor in Council has made it a condition of the issue of a permit under section 4 or 5 of the Act that the land be identified under the program for non-development use; and
- (b) where land owned by Her Majesty the Queen in right of the Province, or an agency of Her Majesty, is to be sold and the Lieutenant Governor in Council has determined that the land be identified for non-development use under the program. (EC606/95)

3. Object

The object of the land identification program is to prevent development of land identified for non-development use. (EC606/95)

4. Program does not apply

The land identification program does not apply where

- (a) the land is within the boundaries of a municipality that has an official plan approved by the Minister under the *Planning Act* R.S.P.E.I. 1988, Cap. P-8; or
- (b) the land is not located within the boundaries of a municipality referred to in clause (a), and
 - (i) the land consists of a parcel of less than 5 acres or having a shore frontage of less than 165 feet, or
 - (ii) approval has been granted for the development of the entire parcel of land. (EC606/95; 208/05)

5. Identification

(1) Land is identified under the program where

- (a) an identification agreement is entered into by the Minister and the purchaser; or
- (b) the Lieutenant Governor in Council has pursuant to section 9 of the Act made it a condition of the issue of a permit under section 4 or 5 of the Act that the land be identified under the program for non-development use and the person or corporation acquiring the land has agreed to that condition.

Registration of deed

(2) Where clause (1)(b) applies, the land shall be deemed to be identified as if an identification agreement in the form set out in Schedule 1 had been entered into by the purchaser and the Minister, and upon the registration of the deed of conveyance to the purchaser, the Registrar of Deeds shall enter on the deed "Identified for non-development use pursuant to Order-in-Council, EC.....dated". (EC606/95)

6. Particulars of agreement

The identification agreement shall

- (a) include a description of the land identified under the agreement;
- (b) contain a covenant by the purchaser to use the land for non-development use, subject to the provisions of these regulations and to forfeit to Her Majesty in right of the Province all other uses of the land identified under the agreement;
- (c) contain a clause specifying when the agreement becomes effective. (EC606/95)

7. Covenants

The covenants contained in an identification agreement are binding on the purchaser and his successors in title and may, upon the direction of Her Majesty in right of the Province, be enforced by injunction at the instance of the Minister, or the Commission with the approval of the Minister, on behalf of Her Majesty in right of the Province in accordance with the procedure set out in the rules of court. (EC606/95; 760/08)

8. Agreement expiry

- (1) Subject to subsection (2), an identification agreement, including any amendment to it, that is entered into under subsection 5(1), or that is deemed to exist under subsection 5(2), expires
 - (a) on the tenth anniversary of the date the identification agreement came into force, if



- (i) the identification agreement came into force on or after the date this subsection comes into force, or
- (ii) the identification agreement came into force on a date before, but less than 10 years earlier than, the date this subsection comes into force; and
- (b) on the date this subsection comes into force, if the identification agreement came into force 10 or more years before the date this subsection comes into force.

Idem

- (2) An identification agreement that is deemed to exist under subsection 5(2) pursuant to the imposition of a condition on a permit under clause 9(1)(b) of the Act expires on the date the condition is cancelled under subsection 9(2) of the Act, if the identification agreement has not expired earlier under subsection (1).

Effect of amendment

- (3) For greater certainty, an amendment to an identification agreement
 - (a) shall be construed as part of the identification agreement that it amends; and
 - (b) does not, on its coming into force, create a new identification agreement. (EC606/95; 208/05; 746/14)

9. Existing agreements

Land identification agreements made pursuant to the Land Identification Regulations made under the *Planning Act* R.S.P.E.I. 1988, Cap. P-8 shall be deemed to have been made pursuant to the Act and these regulations. (EC606/95)

10. Application to vary or cancel conditions

- (1) An application made pursuant to subsection 9(2) of the Act shall be made in writing to the Commission, and shall describe:
 - (a) the particulars in the land identification agreement which are to be cancelled, suspended or amended; and
 - (b) the reasons for the request.

Report by Commission

- (2) Where an application is made pursuant to subsection (1) the commission shall submit a report respecting the disposition of the application to the minister. (EC606/95; 708/95)

11. Savings

Nothing in these regulations or in an identification agreement shall be construed to preclude or prejudice

- (a) the acquisition or expropriation for the purposes of public works or other public purposes, whether by agreement or pursuant to powers conferred by any statutory provision, of any land identified under these regulations;
- (b) the implementation of an official plan affecting any land identified under these regulations; or
- (c) any previous approval for development or subdivision granted pursuant to the *Planning Act* R.S.P.E.I. 1988, Cap. P-8.

SCHEDULE 1

THIS AGREEMENT made this day of, 20.....,
BETWEEN:(hereinafter called the “Covenantor”)
OF THE FIRST PART

AND:
THE PROVINCE OF PRINCE EDWARD ISLAND, on behalf of Her Majesty (hereinafter called the “Covenantee”)
OF THE SECOND PART

WHEREAS the Covenantor has petitioned the Lieutenant Governor in Council of the Province of Prince Edward Island for permission to acquire the land holding described in Schedule A hereto from.....ofand to acquire and hold said lands in (his)(their)(its) name;

AND WHEREAS pursuant to clause 9(1)(b) of the Prince Edward Island Lands Protection Act, the Lieutenant Governor in Council has made it a condition of consenting to the acquisition referred to in the immediately preceding recital that the lands described in Schedule A hereto be identified in accordance with Land Identification Regulations made by the Lieutenant Governor in Council under the provisions of clause 17(1)(d) of the said Act.

AND WHEREAS the Covenantor has agreed to identify the lands described in Schedule A hereto in accordance with the Regulations, the said identification to become effective on the same day that the Deed of Conveyance fromto the Covenantor is registered and the Covenantor will also register this Agreement immediately following the Deed of Conveyance;

NOW THEREFORE THIS INDENTURE WITNESSETH that in consideration of the premises and of the mutual covenants and agreements hereinafter contained and pursuant to the provisions of the Planning Act and the Land Identification Regulations made under the Prince Edward Island Lands Protection Act, the parties hereto covenant and agree as follows:

1. The Covenantor covenants and agrees that the lands described in Schedule A be identified for non-development use and the same is hereby so identified in accordance with the Land Identification Regulations made under the Prince Edward Island Lands Protection Act .
2. The Covenantor does hereby covenant and agree to use the lands described in Schedule A for non-development use only subject to the provisions of the Land Identification Regulations, and the Covenantor does hereby forfeit to Her Majesty the Queen, in right of the Province of Prince Edward Island, all other uses of the said lands.
3. This agreement becomes effective immediately after the execution of a Deed of Conveyance from to the Covenantor conveying to the Covenantor the lands described in Schedule A.
4. The Covenantor does covenant and agree to register this Agreement with the Registrar of Deeds for County immediately after (meaning the next document registered) the registration of the Deed of Conveyance from to the Covenantor. For greater clarification, it is agreed that no intervening document of any nature whatsoever shall be registered after the registration of the Deed of Conveyance from to the Covenantor and before the registration of this Agreement.

- 5. This Agreement incorporates by reference all of the Land Identification Regulations referred to in the recitals to this Agreement. The Covenantor declares that he is aware of and fully understands said regulations.
- 6. This Agreement is binding upon and enures to the benefit of the Covenantor, his heirs, executors, administrators, or assigns (or its successors and assigns as the case may be) and the Covenantee, its successors and assigns according to law.

IN WITNESS WHEREOF the parties have hereunto set their hands and seals on the day and year first above written.

SIGNED, SEALED AND DELIVERED

in the presence of:

.....
Covenantor

.....
*Minister responsible for the Prince Edward
Island Lands Protection Act*

(EC606/95)

SCHEDULE A

(Description of Lands)

(EC606/95)

