



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

LAND SURVEYORS ACT

PLEASE NOTE

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This document is *not* the official version of the Act. The Act and the amendments as printed under the authority of the King'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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LAND SURVEYORS ACT

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LAND SURVEYORS ACT

CHAPTER L-3.1

INTERPRETATION

1. Definitions

In this Act,

- (a) “**Association**” means the Association of Prince Edward Island Land Surveyors continued under section 2;
- (b) “**Board**” means the Board of Examiners continued under section 6;
- (c) “**certificate**” means a certificate of qualification as a land surveyor issued under section 8;
- (d) “**Council**” means the Council of the Association continued under section 5;
- (e) “**instrument**” means any instrument used in a land survey, whether static, mechanical, electrically or electronically powered for measuring or establishing a line, angle, distance, elevation or position;
- (f) “**land survey**” includes a survey by photogrammetric, electronic or astronomic or other method, of land, water or airspace, for the purpose of preparing plans and documents or giving advice connected with
 - (i) the establishment or location of a boundary or the determination of any right or interest encompassed by the boundary, and
 - (ii) the determination of the location of any object for the purpose of certifying the location of that object with respect to a boundary;
- (g) “**land surveyor**” means a person who has been issued a certificate under section 8;
- (h) “**license**” means a license granting membership in the Association, issued under section 11;
- (i) “**member of the Association**” means a land surveyor who has been issued a license under section 11;
- (j) “**Minister**” means the Minister of Transportation and Infrastructure;
- (k) “**surveyor-in-training**” means a candidate for qualification as a land surveyor.
2001, c.10, s.1; 2010, c.31, s.3; 2015, c.28, s.3; 2021, c.8, s.3.

PART I — ASSOCIATION

2. Continuation

- (1) The Association of Prince Edward Island Land Surveyors as constituted in the *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3 is hereby continued as a body corporate under the same name.

Composition

- (2) The Association is composed of persons who are members of the Association on the date this Act comes into force and such other persons as become members in accordance with this Act and the bylaws of the Association.

Category of membership unchanged

- (3) A person who was a member of the Association when this Act comes into force shall have the same category of membership as he had before the coming into force of this Act.

Head office

- (4) The head office of the Association shall be in Charlottetown or at such other place as the Council determines. *2001, s.10, s.2.*

3. Objectives

The objectives of the Association are to

- (a) regulate the practise of professional land surveying and govern its members in a manner that best serves and protects the public;
- (b) establish, maintain, and develop standards for the practise of land surveying and of professional conduct of members of the Association; and
- (c) promote public awareness of the role of the Association and communicate and cooperate with other professional organizations for the advancement of the best interests of the Association. *2001, c.10, s.3.*

4. Powers of Association and bylaws

The Association has powers, and may make bylaws, respecting

- (a) the governance and assurance of the integrity of the members of the Association;
- (b) the rules of professional conduct and a code of ethics for the guidance of members of the Association;
- (c) the complaints and discipline of members of the Association;
- (d) the acquisition and holding of assets and property, both real and personal, by way of purchase, lease, grant, or otherwise and the disposition of such property by any means;
- (e) the management of its property and assets;
- (f) the borrowing of money for the purpose of carrying out any of the objectives of the Association;
- (g) the investment of the moneys of the Association;
- (h) the issuance, suspension, revocation, and reinstatement of licenses;
- (i) the establishment and maintenance of a register of members of the Association as the official register of persons holding licenses to practise land surveying in the province;

- (j) the fixing and collection of fees payable by any person
 - (i) upon being admitted as a member of the Association or enrolled as a surveyor-in-training,
 - (ii) as annual license and reinstatement fees,
 - (iii) of any other fees or charges, including fees to recover the costs associated with proceedings under sections 12 and 13;
- (k) the entering into of any agreement necessary for carrying out the objectives and powers of the Association;
- (l) the rules of procedure and conduct for meetings of the Association;
- (m) the eligibility, nomination, election, number and terms of office of members of the Council and committees and the conduct and duties of members and officers thereof;
- (n) the conduct and procedure governing disciplinary proceedings;
- (o) the establishment of minimum standards for the practice of land surveying;
- (p) the establishment of categories of members of the Association;
- (q) the establishment of suggested guidelines for minimum standard tariffs of fees charged by members of the Association; and
- (r) the doing of any other thing for the proper administration and enforcement of this Act. 2001,c.10,s.4.

COUNCIL

5. Continuation

- (1) The Council of the Association constituted under the *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3 is hereby continued under the same name.

Composition of Council

- (2) The Council shall consist of a president, vice-president, secretary-treasurer, the immediate past president, and such other members as are elected and hold office in the manner provided in the bylaws of the Association.

Powers of Council

- (3) The Council shall conduct the affairs and exercise the powers of the Association and any other powers conferred directly on the Council under this Act. 2001,c.10,s.5.

PART II — BOARD OF EXAMINERS

6. Continuation

- (1) The Board of Examiners for Prince Edward Island constituted by the *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3 is hereby continued.

Composition of Board

- (2) The Board shall consist of
 - (a) the Deputy Minister of Transportation and Infrastructure or a member of the Department of Transportation and Infrastructure appointed by the Deputy Minister;

- (b) two persons appointed by the Lieutenant Governor in Council, at least one of whom is a member of the Association; and
- (c) two members of the Association appointed by the Association.

Failure to appoint

- (3) If the Association does not appoint one or both of the members referred to in clause (2)(c) within 60 days of a request in writing from the Minister, the Minister may appoint the members.

Election of executive

- (4) The Board shall elect a chairman, a vice-chairman and a secretary from among the persons referred to in subsection (2).

Meetings

- (5) The Board shall meet regularly once a year, and at such other times as the chairman sees fit, and notice of time and place of each meeting shall be given by the chairman.

Remuneration

- (6) Each person forming part of the Board shall receive from the Association such remuneration as the Council determines for each day on which he attends a meeting of the Board and for his reasonable travelling expenses.

Report

- (7) The Board shall make a report to the Council at the last meeting of the Council preceding the annual meeting of the Association.

Regulations

- (8) The Board, with the approval of the Lieutenant Governor in Council, may make regulations respecting
 - (a) the educational and other competency qualifications to be possessed by candidates for certificates and for surveyors-in-training;
 - (b) the subjects for examination of candidates for certificates;
 - (c) examinations and the duties and functions of examiners; and
 - (d) such other matters as the Board considers necessary or advisable to perform its functions or exercise its powers.

Bylaws of the Board

- (9) The Board may make bylaws respecting
 - (a) fees for examinations, applications for certificates, and reinstatement of certificates;
 - (b) the establishment of committees for the efficient exercise of its powers under this Part; and
 - (c) its own rules of procedure at meetings and at hearings. *2001,c.10,s.6; 2010,c.31,s.3; 2015,c.28,s.3; 2021,c.8,s.3.*

PART III — PRACTISE OF LAND SURVEYING

PROHIBITION

7. Prohibition

No person shall practise or hold himself out as a land surveyor or perform a land survey unless he is a member of the Association. *2001, c.10, s.7.*

CERTIFICATES

8. Requirements

- (1) The Board shall issue a certificate to a person who
 - (a) submits a signed application in writing to the Board;
 - (b) meets the necessary educational requirements as prescribed in the regulations;
 - (c) subject to subsection (2), has successfully completed the requirements as a surveyor-in-training, as prescribed in the regulations;
 - (d) has passed the examination prescribed in the regulations; and
 - (e) has paid the fees set out in the bylaws of the Board.

Power to exempt

- (2) Notwithstanding anything contained in this section, the regulations, or the bylaws of the Board, the Board may exempt a person from any requirement prescribed in the regulations respecting the qualifications of a surveyor-in-training. *2001, c.10, s.8.*

9. Examinations

- (1) Examinations shall be held in Charlottetown and at such other places and times as the Board may direct and give notice thereof.

Notice of application

- (2) A person who wishes to write the examination referred to in clause 8(1)(d) shall give notice to the Board at least 14 days before the scheduled date of the examination of his intent to write the examination. *2001, c.10, s.9.*

10. Powers of Board to suspend, etc.

- (1) The Board may suspend, revoke or reinstate a certificate of a land surveyor, whether or not he is a member of the Association, for any cause for which the Council or the Complaints and Discipline Committee established under subsection 12(4) may suspend, revoke or reinstate a license under sections 12 and 13. How powers exercised
- (2) The powers of the Board under subsection (1) shall be exercised in the same manner and subject to the same right of appeal, with such modifications as the circumstances require, as the powers of the Council or the Complaints and Disciplinary Committee are respecting the suspension, revocation and reinstatement of a license under sections 12 and 13.

Regulations

- (3) The Board may, in addition to the grounds set out in subsection (1), also suspend, revoke or reinstate a certificate of a land surveyor pursuant to the regulations.

Effect of suspension or revocation

- (4) If the Board has suspended or revoked a certificate under this section, the person is not entitled to apply to be a member of the Association until his certificate is reinstated or he re-applies and is issued a new certificate. *2001, c.10, s.10.*

LICENSES

11. License

- (1) The Association shall issue a license to a land surveyor who applies and meets the requirements for a license set out in the bylaws of the Association including the payment of the license fee set out in the bylaws.

Power of Association to suspend, etc.

- (2) The Association may suspend, revoke or reinstate a license in accordance with the bylaws of the Association or sections 12 and 13.

Effect of suspension or revocation

- (3) Where a license is suspended or revoked, the member ceases to be a member of the Association and to be entitled to practise as a land surveyor until he is reinstated in accordance with subsection 13(5) or the bylaws of the Association or is issued a new license after *re*-applying for membership in accordance with subsection (1). *2001, c.10, s.11.*

COMPLAINTS AND DISCIPLINE

12. Complaints

- (1) Any complaint against a member of the Association shall be made, in writing, to the secretary-treasurer of the Council, in accordance with the bylaws of the Association.

Copy to Council

- (2) The secretary-treasurer shall, on receiving a complaint under subsection (1), immediately send a copy to the president of the Council who shall, if he considers the matter to be urgent, call a special meeting of the Council for the purpose of evaluating the complaint.

Evaluation

- (3) If no special meeting is called, the complaint shall be evaluated at the next regular meeting of the Council.

Conflict of interest

- (4) If the president discovers at any time in the complaints and discipline processes that the complaint places himself or any other member of the Council in a conflict-of-interest position, he shall call a special meeting of the Association to appoint a Complaints and Discipline Committee in accordance with the bylaws of the Association and confer the matter and all powers related to the process to this committee.

Decisions of Council or Committee

- (5) The Council or the Complaints and Discipline Committee, as the case may be, shall, after evaluating the complaint, decide that
- (a) the complaint requires no further investigation;
 - (b) a hearing is warranted; or
 - (c) such other resolution is appropriate in the circumstances including mediation, conciliation or other alternative dispute resolution procedures, and order
 - (i) that such resolution be undertaken by the complainant and the subject of the complaint, and
 - (ii) what procedures are to be followed in such a case.

Notice of evaluation

- (6) If the Council or the Complaints and Discipline Committee decides that a hearing is warranted, it shall give at least 14 days' notice of the meeting at which the complaint is to be heard to the member of the Association who is the subject of the complaint.

Right to be heard

- (7) The member of the Association shall have the right to be present with counsel and to cross-examine all witnesses called and produce evidence in his defence.

Absent member

- (8) Where the member of the Association who is the subject of the complaint does not appear at the hearing either by himself or with counsel, the Council or the Complaints and Discipline Committee may proceed to hear the complaint in his absence.

Committee's decisions

- (9) After the hearing, the Council or the Complaints and Discipline Committee shall either
- (a) dismiss the complaint; or
 - (b) subject to any measures it may take under subsection (10), uphold the complaint.

Where complaint upheld

- (10) If the complaint is upheld, the Council or the Complaints and Discipline Committee may
- (a) order *re*-education or other rehabilitative measures for the member;
 - (b) ask for the voluntary surrender of the member's license;
 - (c) after the hearing referred to in section 13, suspend or revoke the member's license where it finds that the member is guilty of
 - (i) gross negligence, incompetence or fraud in the performance of his duties as a land surveyor,
 - (ii) knowingly certifying a plan not in compliance with the bylaws of the Association, or
 - (iii) certifying as his own plan or report of a survey when the survey was not made by him or under his supervision; or
 - (d) order a fine in lieu of or in addition to the other sanctions under this subsection.
2001, c.10, s.12.

HEARING ON SUSPENSION OR REVOCATION OF LICENSES

13. Hearing

- (1) The Council or the Complaints and Discipline Committee shall not suspend or revoke a license of a member of the Association under clause (12)(10)(c) unless the member has been given at least 30 days' notice in writing of the findings referred to in that clause and of the time and place they will be considered.

Consideration of findings

- (2) After notice has been given under subsection (1), the findings will be considered by the Council or the Complaints and Discipline Committee which may hear evidence under oath.

Right to be heard

- (3) When the Council or the Complaints and Discipline Committee considers the findings, the member shall be entitled to be heard and to be represented by counsel.

Notice

- (4) The Council or the Complaints and Discipline Committee shall serve notice on the person that his license has been suspended or revoked and the suspension or revocation shall take effect at that time.

Reinstatement

- (5) A majority of the members of the Council or the Complaints and Discipline Committee may reinstate the license where
- (a) it is satisfied that the grounds leading to the suspension or revocation of the license have ceased to exist and the person is competent and fit to resume practise as a land surveyor; and
 - (b) the person shows proof that he has paid the reinstatement fee provided in the bylaws of the Association and possesses a certificate. *2001, c.10, s.13.*

APPEAL

14. Appeal of license suspension or revocation

- (1) A person whose license has been suspended or revoked under sections 12 and 13 may appeal the suspension or revocation to a judge of the Supreme Court by filing a notice of appeal with the court and serving a copy of it on the Council or on the Complaints and Discipline Committee, as the case may be, no later than 30 days after the date the notice of the suspension or revocation was served on the person.

Decision of court

- (2) The judge hearing the appeal may rehear the matter and hear new evidence and may make such order or give such direction as to the suspension or revocation of the license and as to the costs of the appeal as to the judge seems just. *2001, c.10, s.14.*

PART IV — MISCELLANEOUS**EVIDENCE OF CERTIFICATE OR LICENSE****15. Effect of certificate signed by Board's secretary**

- (1) In any proceedings in any court, a certificate purporting to be signed by the secretary of the Board that a person is or is not or was or was not, on a date or during a period stated in the certificate the holder of a certificate, is admissible in evidence without proof of the signature or position of the person who purported to sign the certificate and is *prima facie* proof of the facts certified.

Effect of certificate signed by Association's secretary-treasurer

- (2) In any proceedings in any court, a certificate purporting to be signed by the secretary-treasurer of the Association that a person is or is not or was or was not on a date or during a period stated in the certificate, a holder of a license is admissible in evidence without proof of the signature or position of the person who purported to sign the certificate and is *prima facie* proof of the facts certified. *2001, c.10, s.15.*

POWERS OF LAND SURVEYORS**16. Powers of land surveyor respecting evidence**

- (1) A land surveyor has, with respect to all matters relating to the survey of lands and for better determining the corner, boundaries or limits or elevation of any county, township, polling district, section or other legal division of lot, parcel or tract of land, all the powers of a commissioner under the *Public Inquiries Act R.S.P.E.I. 1988, Cap. P-31* for the examination and compelling of witnesses in relation to such matters.

Written evidence

- (2) All evidence taken by a surveyor shall be
- (a) reduced to writing;
 - (b) read over to the person giving the evidence;
 - (c) signed by the person, or if he cannot write, acknowledged by him as correct before two witnesses, who shall sign it; and
 - (d) filed and kept in the offices of the land surveyor. *2001, c.10, s.16.*

17. Right of entry

- (1) Every land surveyor when engaged in duties of the profession and anyone acting under his authority may enter on and pass over the lands and airspace of any person whomsoever, at the reasonable convenience of such person, doing as little damage as possible.

Exemption

- (2) No action shall lie against such land surveyor or anyone acting under his authority for any act done under this section, but a land surveyor is liable to make good any unnecessary damage done by him or by anyone acting under his authority under this section. *2001, c.10, s.17.*

OFFENCES AND PENALTIES

18. Hindering or obstructing a land surveyor

No person shall hinder or obstruct a land surveyor, or a person acting under a land surveyor's direction, while engaged in the duties of his profession. *2001,c.10,s.18.*

19. Removing, destroying or damaging markings

No person shall wilfully remove, or cause to remove or destroy, or cause destruction of or damage to any mark, stake, metal pipe or pin or sign denoting a point of reference or elevation that was placed by a land surveyor. *2001,c.10,s.19.*

20. General offence and penalty

A person who violates any provisions of this Act commits an offence and is liable, on summary conviction to a penalty of not less than \$500, but not exceeding \$2,000 or, in default of payment, to imprisonment for a term not exceeding 30 days. *2001,c.10,s.20.*

21. Publishing warning

The Association shall publish, or cause to have published in a place and manner set out in the bylaws of the Association, a warning to the general public at least once a year in any media relating to sections 17 to 20. *2001,c.10,s.21.*

REPEAL

22. Repeal

The *Land Surveyors Act* R.S.P.E.I. 1988, Cap. L-3 is repealed. *2001,c.10,s.22.*