

**Proposed Amendments**  
***Land Registration Administration Regulations, NS Reg 207/2009, as amended by N.S. Reg. 189/2010***

**1. New requirements regarding the order of the legal description in the PDCA:**

**New 7(10B)** A legal description submitted under subsection (10) must be set out in the following order:

- (a) the description of the location, boundaries extent as required in clause 10)(a);
- (b) the description of all parcels excepted out of the legal description as required in clause (10)(b);
- (c) the description of each benefit as required by clause (10)(b), immediately followed by the information pertinent to the use of the benefit as required in clause (10)(c);
- (d) the description of each burden as required by clause (10)(b), immediately followed by the information pertinent to the use of the burden as required in clause (10)(c); and
- (e) the statement required in clause (10)(d).

**2. New requirements when a parcel is created on subdivision or registration of a condominium declaration:**

**Subsection 9(3) is amended to read as follows and subsections (4) and (5) are added as follows:**

- (3)** Subject to subsection (5), the registered owner of a parcel registered under the Act that is created on subdivision or registration of a condominium declaration must do all of the following within 30 days of the creation of the parcel and before submitting an request to change the registered owner of the parcel:
- (a) create and record in all affected parcel registers all of the benefits and burdens indicated on the approved plan of survey or in the condominium declaration;
  - (b) submit a Form 45 adding, confirming, deleting or correcting, as necessary, the interests, textual qualifications and parcel access type that
    - (i) are not shown in the parcel register,

- (ii) have been placed in the parcel register under subsection 13(5) of the Act or subsection (2), or
  - (iii) have been removed from the parcel register under subsection (1);
  - (c) submit any consequential amendment of the PDCA for the parcel in Form 2 which is needed to reflect the changes made under clauses (a) and (b).
- (4) A person authorized under subsection 7(6) is authorized to fulfill the requirements of subsection (3).
- (5) If it is necessary to facilitate a consolidation process, a consolidation deed accompanied by an approved consolidation plan may be recorded prior to the completion of the requirements in subsection (3).

**3. New requirements if an owner's declaration in Form 5 discloses that a parcel is occupied without permission.**

**Subsection 10(9) is amended to read as follows:**

- (9) If a parcel owner's declaration regarding occupation in Form 5 discloses that the parcel is occupied without permission, including the use of a travelled way across the parcel, the authorized lawyer submitting the AFR must
- (a) submit a textual qualification with the AFR which provides the details of the occupation and the notice given to the occupiers and a statement of the owner's position with regard to the occupation;
  - (b) no later than 14 days prior to submitting the AFR in final form, provide a notice of parcel registration in Form 9 to the occupier indicating that an AFR is being submitted; and
  - (c) submit a true copy of the notice sent to the occupier in Form 9 with the AFR, together with proof of service in accordance with Section 30, using Form 26N.

**4. New requirements for registration of a parcel on the basis of adverse possession. Subsection 10(10) is amended to read as follows:**

- (10) Except as provided in subsection (11), if an authorized lawyer who is certifying title to a parcel whose ownership is registered in whole or in part on the basis of adverse possession, must
- (a) no later than 14 days prior to submitting the AFR in final form, serve notice of proposed registration in Form 9 to the last known owner on record of the

parcel, based on a title search of the records maintained under the *Registry Act*, prior to the owner(s) whose possessory interest is being registered with the AFR; and

- (b) submit a true copy of the notice sent in Form 9 and any written directions from the Registrar General under subsection 31(2) using Form 26N, together with proof of service in accordance with Section 30, immediately following submission of the AFR in final form.

**5. New requirement added to subsection 10(12) requiring a textual qualification if a post-migration Form 5 is required:**

- (d) add a textual qualification in the parcel register which provides the details of the occupation and the notice given to the occupiers and a statement of the owner's position with regard to the occupation.

**6. Reduced parcel access types and requirements associated with each type:**

**10A Parcel Access Types**

- (1) When providing an opinion under clause 37(9)(a)(ii) of the Act concerning the direct or indirect right of access to the parcel, if any, from a public street, highway or navigable waterway, an authorized lawyer must do all of the following:
  - (a) choose the appropriate access type from the following options, for the following circumstances:
    - (i) “no documented right of access”, if there is no documentation recorded at the registry of deeds sufficient to support an opinion that there is a right, which runs with the land, of uninterrupted access from the parcel to a public street or highway,
    - (ii) “public”, if the parcel abuts a public street or highway,
    - (iii) “private”, if there is a document(s) recorded at the registry of deeds sufficient to support an opinion that there is a right, which runs with the land, of uninterrupted non-public access to a public street or highway, which is created by grant, prescription, implication, or through operation of law,
    - (iv) “navigable waterway”, if the parcel abuts a navigable waterway;
  - (b) include a textual qualification setting out a description of the actual access to the parcel, including the details of any limitations or restrictions on the access,

and any additional information necessary to describe the access, including the nature of the waterway, if applicable, in all of the following cases:

- (i) if actual access to the parcel is not as indicated by the access type chosen,
  - (ii) if there are any limitations or restrictions on actual access to the parcel if relying on the access type chosen,
  - (iii) if the access to the parcel is not apparent from the documents in the parcel register,
  - (iv) if the access is based on an unrecorded interest or statutory provision,
  - (iv) if the access type chosen is “navigable waterway”.
- (2) An authorized lawyer acting on behalf of a registered owner is permitted to amend a parcel register at any time in accordance with this Section, by filing a Form 24, to update an access type previously available in Property Online to an applicable access type in subsection (1).

**7. New subsection added to Section 11 to outline circumstances when a textual qualification is mandatory:**

- (1A) An authorized lawyer submitting an opinion on title in an AFR or a certificate of legal effect must include a textual qualification in all of the following circumstances:
- (a) when registering a tenant in common interest, to indicate the percentage or fraction of interest held by each owner of a tenant in common interest in the parcel;
  - (b) if the lawyer is aware about competing chains of title or claims of ownership affecting title or extent of title, to disclose the information;
  - (c) wherever required by the Act or the regulations.

**8. Requirements regarding additions of benefits and burdens are changed. Sections 15 and 18 are repealed and Sections 14, 16, and 17 are amended to read as follows:**

**Addition of a benefit or burden to a parcel registered under the Act**

- 14(1)** An authorized lawyer may add any benefit or burden permitted under the Act to be added to a parcel register, if authorized by the registered owner of the parcel, by

submitting a Form 24 together with the document that conveys or evidences the benefit or burden.

- (2) If a benefit or burden added under subsection (1) affects another parcel registered under the Act, and the corresponding benefit or burden is not already included in the affected parcel register, an authorized lawyer submitting a Form 24 under subsection (1) must do one of the following if the corresponding benefit or burden is not shown in the affected parcel register:
  - (a) subject to subsection (5), ensure that the corresponding benefit or burden is added to the affected parcel register; or
  - (b) add a textual qualification in the parcel register in which the Form 24 has been recorded indicating that the corresponding benefit or burden is not shown in the affected parcel register.
- (3) Subject to subsection (3A), if a benefit or burden added under subsection (1) affects another parcel not registered under the Act, an authorized lawyer submitting a Form 24 under subsection (1) must do both of the following:
  - (a) register a notice of the corresponding benefit or burden under the *Registry Act*, by filing the following documents:
    - (i) a Form 44 and a Form 8A, and
    - (ii) each document evidencing the benefit or burden, if the document is a grant of easement or a statutory declaration, together with a Form 44 for each document filed, and
  - (b) add a textual qualification in the parcel register in which the Form 24 has been recorded indicating that the affected parcel, identified by the property address and owner named on the Form 8A, was not registered under the Act at the time that the benefit or burden was added, but that a Form 8A was filed under the *Registry Act*.
- (3A) If there is no assessment account associated with the affected parcel referred to in subsection (3) and the apparent owner of that parcel is shown on Property Online as unknown, owner unknown, unknown owner, local common, or road parcel owner undetermined, an authorized lawyer is exempt from the requirements of subsection (3) but must add a textual qualification in the parcel register to which the Form 24 was added under subsection (1) which states as follows:

“Under subsection 14(3A) of the *Land Registration Administration Regulations*, notice to the owner of PID (*PID of affected parcel*) shown in POL as (*ownership attribute*) was not provided concerning the addition of (*particulars of benefit/burden*).”

- (4) An authorized lawyer who submits a Form 24 under subsection (1) must also apply to amend the legal description for each parcel registered under the Act to which a burden or benefit has been added.
- (5) An authorized lawyer who submits a Form 24 under subsection (1) must add the corresponding benefit or burden to the parcel register of an affected parcel noted in subsection (2), if the owner of the affected parcel executed the document that conveys or evidences the benefit and corresponding burden or has properly executed a written consent to the addition of the interest, which must be submitted as an attachment to the document.
- (6) *Repealed*
- (7) The Form 8A filed under subsection 3 must reference the owner of the parcel not registered under the Act as shown on the consolidated index maintained under the *Registry Act*, unless
  - (a) an assessment account is associated with the parcel in Property Online, in which case the document may instead reference the owner of the parcel as shown in Property Online; or
  - (b) the Registrar General is satisfied that it would not be practicable to identify the owner on the consolidated index and the Registrar General does one or both of the following:
    - (i) provides written directions to the authorized lawyer about how the owner must be referenced;
    - (ii) issues a written directive about how an owner may be referenced in the applicable circumstances.
- (8) An authorized lawyer must retain a true copy of any written directions received under subsection (7) and make it available for review by the Registrar General upon request and audit by the Nova Scotia Barristers' Society.

**Addition of burdens and restrictive covenants which do not require identification or addition of benefit**

- 16(1)** Despite Section 14, an authorized lawyer is not required to identify or add a corresponding benefit to other affected parcels when adding
- (a) a burden in favour of a public utility, an unidentified utility, or a municipality, or
  - (b) restrictive covenants,

to a parcel registered under the Act.

- (2) The authorized lawyer who makes an application to add an interest in clause (1)(a) or (b) to a parcel registered under the Act must
- (a) submit a request and certificate of legal effect, in Form 24, to revise the parcel register of the parcel to which the interest is being added; and
  - (b) make application to amend the legal description of the parcel to which the interest is being added; and
  - (c) if not acting on behalf of the registered owner, attach to the document that conveys or evidences the interest, the properly executed written consent of the owner to the addition of the interest, unless the owner has executed the document that conveys or evidences the interest.

**Exemption from requirement to identify or add corresponding benefit or burden**

- 17(1)** Despite Section 14 , an authorized lawyer who is adding a benefit or burden to a parcel that is registered under the Act, is exempted from the requirement to identify or add a corresponding benefit or burden to other affected parcels in any of the following circumstances:
- (a) the location or extent of the affected parcels is uncertain;
  - (b) the benefit or burden is intended to be added to future lots created in a subdivision;
  - (c) a significant administrative burden would be created due to the excessive number of affected parcels;
  - (d) the affected parcels are units in a condominium corporation.
- (2) An authorized lawyer who is exempt under subsection (1) must add both of the following to the parcel register in which the benefit or burden has been added:
- (a) a reference to “various PIDs” or “various owners” in relation to the benefit or burden;
  - (b) a textual qualification setting out all of the following:
    - (i) the basis of the exemption claimed under this Section,
    - (ii) any available information regarding the location and identification of the affected parcels and the source of that information,

(iii) a statement that the affected parcels may not reflect the corresponding benefit or burden.

(3) The Registrar General may add a textual qualification to a parcel register which had a “various PID” or “various owners” reference added regarding a benefit or burden prior to the requirement in subsection (2), which states that the affected parcel may not reflect the corresponding benefit or burden.

**9. Section 24 which sets out prescribed contracts has been amended to include licenses.**

**10. Forms 8, 48A, 49 and 50 have been repealed. All remaining forms, with the exception of Form 2, have been amended to reflect changes in the requirements in the regulations and to attempt to make the forms more user friendly. A copy of all revised forms are attached to this letter.**