

NUNATSIAVUT ASSEMBLY
(CIL L-1 24-01-2019)
LABRADOR INUIT LANDS ACT
ORIGINAL ENACTMENT IL-2005-14
AMENDED IL-2008-03
AMENDED IL-2008-06
AMENDED IL 2011-07
AMENDED IL-2019-01

(Note: amendments under 2011-07 come into effect by order of the President or on March 9, 2012, whichever is earlier>)

AN INUIT LAW RESPECTING LABRADOR INUIT LANDS

WHEREAS title to Labrador Inuit Lands is vested in the Inuit;

AND WHEREAS the Nunatsiavut Government is responsible for the administration, control and management of Labrador Inuit Lands;

NOW THEREFORE BE IT ENACTED by the Nunatsiavut Assembly as follows:

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PART 1 GENERAL

Short Title

- 1.1 This Inuit law may be cited as the *Labrador Inuit Lands Act*.

Definitions and Interpretation

- 1.2 For the purposes of this Act, unless otherwise required by the context, the following definitions apply:

“Act” means an Inuit Law;

“Agreement” means the Labrador Inuit Land Claims Agreement;

“Appendix 5-A” means Appendix 5-A to the Agreement;

"Applications Registry" means the registry for the administration of all applications for private interests in Labrador Inuit Lands established as a division of the Department under section 2.16;

“Assembly” means the Nunatsiavut Assembly;

“Caveat” means a formal notice of an interest in a lot that has been recorded in the Registry of Titles which, by virtue of such recording, prevents any new right being created or issued in the lot unless the new right is subject to the interest described in the notice;

“Certificate of title” means the record of the title to a lot;

“Crown” means Her Majesty the Queen in right of Canada and Her Majesty the Queen in right of Newfoundland and Labrador;

"Department" means the division, branch or agency of the Nunatsiavut Government that is established under section 2.6 and that is responsible for the administration of Labrador Inuit Lands and this Act;

"Document" means a written or printed paper, a plan, a map, and includes any information in a form that can be converted into writing, a plan or a map by a computer, information in electronic, mechanical or magnetic storage, and information in electronic data signals;

“Encumbrance” means any charge on a lot or charge on a private interest in a lot created or effected under this Act for any purpose whatever and includes a lien and a mortgage;

“Encumbrancee” means the owner of an encumbrance and includes a mortgagee;

“Encumbrancer” means the owner of a private interest in a lot subject to an encumbrance and includes a mortgagor;

“Estate” means the possessory entitlements in a lot held as Inuit freehold title, a life estate, leasehold title and aulavik freehold title;

“Executive Council” means the President-in-Council;

“Instrument” means:

- (a) a grant, certificate of title, conveyance, assurance, deed, lease, license, permit, map, plan, will, probate or exemplification of will, letters of administration, or an exemplification of letters of administration, or encumbrance,
- (b) a judgment or order of a court, or
- (c) an agreement or authorization; or
- (d) any other document in writing

relating to or affecting the transfer of or dealing with or evidencing title to or an interest in

Labrador Inuit Lands; (IL-2019-01)

“Interest” means an interest in Labrador Inuit Lands other than

- (a) an interest pursuant to Inuit custom and tradition, and
- (b) an estate;

“Land” means Labrador Inuit Lands as defined and determined pursuant to the Agreement;

“Land Titles Registry” means the Labrador Inuit Land Registration Office established under section 8.13;

“Land Use Plan” means the land use plan contemplated in the Labrador Inuit Land Claims Agreement and provided for in part 5 of this Act;

“Lease” means a rental agreement and includes a sub-lease;

"Lesser estate" means a right, title or interest in an estate that is less than the estate and without limiting the generality of the foregoing includes a life estate, lease, encumbrance, easement, option, license and agreement of sale;

"Lot" means a defined area within a parcel of Labrador Inuit Land in which a private interest exists;

"Lot identification number" means the unique identification number assigned to a lot;

“Marital Property Interest” means, until such time as the Nunatsiavut Assembly enacts an Inuit Law in relation to marital property, a matrimonial interest in real property under laws of Newfoundland and Labrador as qualified by this law;

"Minister" means the member of the Executive Council appointed under section 2.1 to have responsibility for the administration of Labrador Inuit Lands, this Act and the Department;

"Parcel" means a parcel of Labrador Inuit Land under the Labrador Inuit Land Claims Agreement that is given a parcel identification number under the Agreement;

“Permit” means a license or other authorization issued by the Minister;

“Pre-existing surface interest” means a surface interest on Labrador Inuit Lands pursuant to Part 4.9 of the Agreement;

“Private interest” means a tenure of Labrador Inuit Lands described in Part 4 that is issued under this Act and includes an estate, a lesser estate and an interest;

“Province” and “Provincial” mean the Government of Newfoundland and Labrador;

“Registrar of Land Titles” means the Registrar of Labrador Inuit Land Titles appointed under section 8.15;

"Register of Titles" means the central record of titles in Labrador Inuit Lands under Part 8;

"Structure" means a building, wharf, fence, trailer, bus or other motor vehicle, a footing, foundation, wall or materials that may be used in the erection of a structure and the contents of a structure but does not include a tent or ice house;

Traditional tenure” means an exclusive right of possession or use in relation to a specific area of Labrador Inuit Lands that is recognized pursuant to Inuit custom and tradition as being held by an individual Inuk or a specific Inuit family and, without limitation, includes exclusive rights of possession or use enjoyed by Inuit individuals or families in relation to specific cabin sites, fishing stations, sealing stations, Aullâsimavet and trap lines;

“Transferee” means a person eligible to own an private interest in Labrador Inuit Lands to whom the private interest is transferred whether for value or otherwise;

Incorporation of Agreement definitions

1.3 Terms that are not defined in this Act but which are defined in the Agreement and are used in this Act have the meanings assigned to them in the Agreement.

Application of this Law

1.4 This law applies to Labrador Inuit Lands, to private interests in Labrador Inuit Lands and, subject to the Agreement, to pre-existing interests in Labrador Inuit Lands.

Inuit Access to Labrador Inuit Lands

1.5 Subject to the Labrador Inuit Land Claims Agreement, Inuit have the right, in accordance with Inuit customs and traditions, to enter and to use all Labrador Inuit Lands, other than those lots in Labrador Inuit Lands:

- (a) to which a certificate of title has been issued, and
- (b) that are subject to an interest that expressly confers an exclusive right of occupancy in respect of all or part of the lot.

How Private Interests in Labrador Inuit Lands Originate

1.6 Except as provided in section 1.5, no person is entitled to an estate, right, title or interest in Labrador Inuit Lands unless:

- (a) the interest is a pre-existing surface interest; or
- (b) the estate, right, title or interest is a private interest created and issued under this Act.

No Adverse Possession

- 1.7 No person may acquire an estate, right, title or interest in Labrador Inuit Lands by prescription, the doctrine of lost modern grant, adverse possession or limitation of action, or by operation of legislation with respect to prescription, adverse possession or limitation of action.

Inuit Custom and Tradition Preserved

- 1.8 Nothing in section 1.7 is intended to affect traditional tenures or the operation of Inuit custom and tradition.

PART 2 ADMINISTRATION OF LABRADOR INUIT LANDS AND THE DISPOSITION OF INTERESTS IN LABRADOR INUIT LANDS

DIVISION 1 ADMINISTRATION OF LABRADOR INUIT LANDS

Responsible Minister

- 2.1 The Nunatsiavut Executive Council must appoint a member of the Executive Council to administer Labrador Inuit Lands, this Act and the Department.
- 2.2 Labrador Inuit Lands are hereby placed under the administration of the Minister.

Transfer of Administration of Labrador Inuit Lands to Other Ministers

- 2.3 The Minister may, with the written consent of the Executive Council, transfer the administration and control of an area of Labrador Inuit Lands to another member of the Executive Council for purposes of the Nunatsiavut Government.
- 2.4 A transfer of the administration and control of land under section 2.3:
- (a) does not constitute the creation or issuance of a private interest in Labrador Inuit Lands;
 - (b) may only be made following compliance with section 3.4;
 - (c) shall not exceed an area of 10 hectares without the prior approval of the Assembly; and
 - (d) must stipulate the purpose for which the transfer is made and the use or uses that may be made of the land.
- 2.5 Any use by the Nunatsiavut Government of land that is under the administration and control of the Nunatsiavut Government is subject to:
- (a) Part 3;
 - (b) Part 5;
 - (c) the land use plan when it comes into effect;

- (d) Part 6; and
- (e) Inuit laws respecting environmental assessment and protection.

Department of Lands and Resources

- 2.6 The Executive Council must establish and maintain a department of the Nunatsiavut Government to administer Labrador Inuit Lands and this Act.

Minister's Authority

- 2.7 The Minister shall preside over the Department and is responsible to the Nunatsiavut Assembly for the administration of the Department and for the administration and management of Labrador Inuit Lands in accordance with this Act.

Deputy Minister responsible for Labrador Inuit Lands

- 2.8 The Executive Council must appoint a deputy minister who must:
- (a) be responsible to the Minister for the implementation of this Act and the management of the Department;
 - (b) advise the Minister with respect to the creation and issuance of private interests in Labrador Inuit Lands; and
 - (c) perform such other duties and functions in relation to the management administration and development of Labrador Inuit Lands as may be assigned by the Minister or under an Inuit Law.

DIVISION 2 DISPOSITION OF INTERESTS IN LABRADOR INUIT LANDS BY THE NUNATSIAVUT GOVERNMENT

Application of Division and Minister's Power to Issue interests in Labrador Inuit Lands

- 2.9 (1) Nothing in this division applies to a lot for which a Certificate of Title has been issued.

Power to Issue Private Interests in Labrador Inuit Lands

(2) The Minister may, in accordance with this Act, issue a private interest in Labrador Inuit Lands upon the terms and conditions and subject to the payment of the consideration, rents, royalties or other charges that the Minister may, with the written approval of the Executive Council, set out in:

- (a) the regulations; or
- (b) the instrument creating and granting the private interest.

Limitations on Minister's Power

- 2.10 The power of the Minister to create and issue private interests in Labrador Inuit lands under section 2.9(2) is subject to the limitations set out in section 2.11.
- 2.11 (1) No private interest may be created or issued in Labrador Inuit Lands:
- (a) unless the private interest is defined in part 4 and:
 - (i) has been applied for under this part; or
 - (ii) is issued on the basis of a traditional tenure recognized under part 3;
 - (b) within an Inuit Community, within a water lot, or in relation to specified materials without the written approval of the Nunatsiavut Assembly;
 - (c) in a lot that is larger than 0.5 hectares, or in relation to
 - (i) commercial cutting of plants,
 - (ii) carving stone,
 - (iii) specified materials, or
 - (iv) mineral explorationwithout the written approval of the Executive Council;
 - (d) in a protected area established under any law;
 - (e) for purposes of a development unless an Inuit Impacts and Benefits Agreement with respect to the development is in effect or has been waived by resolution of the Nunatsiavut Assembly;
 - (f) for a land use that is not permitted or authorized under the Land Use Plan;
 - (g) if the issuance of the private interest would, without the consent of the owner, conflict with a prior private interest in the same lands; or (IL 2011-07)
 - (h) if, in the opinion of the Minister the issuance of the private interest would conflict with the collective customary or traditional interests of Inuit or a community or group of Inuit in the land. (IL 2008-03) (IL 2011-07)
- (2) If a person applies for a private interest in Labrador Inuit Lands that is not based on a traditional tenure, the Minister must not create or issue the interest unless an inquiry has been completed under section 3.4 and the Minister has made a determination under subsection 3.8(c).
- (3) Despite anything in sub-clause 2.11(1)(a)(i), clause 2.11(1)(c) or subsection 2.11(2) of this Act to the contrary, the Minister may permit a person to access Labrador Inuit Lands

or a Parcel or piece of Labrador Inuit Lands for purposes of Harvesting in accordance with section 4.25 of this Act. (IL 2019-01)

Transitional Limitations on Minister's Power

- 2.12 Despite anything else in this Act, until the Land Use Plan is in effect, the Minister and the Executive Council must not, without the approval of the Nunatsiavut Assembly, issue a private interest in Labrador Inuit Lands for purposes of a commercial or industrial development except in accordance with a special Act passed under Part 5.

Consideration of Overlap Agreements

- 2.13 In making a determination to create or issue a private interest in Labrador Inuit Lands the Minister must consider any applicable overlap agreement and exercise the Minister's discretion subject to the requirements of such agreement.
- 2.14 No private interest may be created or issued in an area of Labrador Inuit Lands that is designated for transfer to the Innu Nation under the overlap agreement between Labrador Inuit Association and the Innu Nation.

Limitations on Power of Executive Council

- 2.15 The Executive Council may not approve the creation or issuance of a private interest in Labrador Inuit Lands in a lot that is larger than 1 hectare without the consent of the Nunatsiavut Assembly.

Applications Registry

- 2.16 The Minister must establish, as a division of the Department, an applications registry for the administration of all applications for private interests in Labrador Inuit Lands.

Responsibility for Applications Registry

- 2.17 The Executive Council may appoint a Director of Labrador Inuit Lands who shall be responsible to the deputy minister for:
- (a) the administration and operation of the Applications Registry;
 - (b) the processing of all applications for private interests in Labrador Inuit Lands; and
 - (c) the recording in the Register of Titles of any private interest in Labrador Inuit Lands issued under the authority of this Act.

Function of Applications Registry

- 2.18 The Applications Registry shall function as a central service unit within the Department and shall:

- (a) receive and processes all applications for private interests in Labrador Inuit Lands other than applications for Instruments permitting entry on Labrador Inuit Lands for purposes of Harvesting: (IL 2019-01)
- (b) refer all applications for private interests in Labrador Inuit Lands to appropriate departments and divisions of the Nunatsiavut Government for approval;
- (c) coordinate and receive all clearances and approvals required under Inuit Law, including any required or recommended terms and conditions;
- (d) liaise with applicants in relation to the processing and approval of applications for private interests in Labrador Inuit Lands;
- (e) provide recommendations and advice to the Minister, through the deputy minister, with respect to the issuance of permits, licenses and other private interests in Labrador Inuit Lands and the terms and conditions that should apply;
- (f) prepare grants, leases, licenses, permits and other authorizations in relation to private interests in Labrador Inuit Lands for issuance in accordance with this Act or other applicable Inuit law;
- (g) operate an electronic data base for the administration and tracking of all applications for private interests in Labrador Inuit Lands and all referrals, recommendations, terms and conditions, refusals and approvals in relation to such applications;
- (h) maintain a record of all dispositions of all applications for private interests in Labrador Inuit Lands; and
- (i) perform any other functions that may be assigned to the Applications Registry by the Minister, the Executive Council or Inuit law

Applications for Private interests in Labrador Inuit Lands to be made through Applications Registry

2.19

- (1) All applications for private interests in Labrador Inuit Lands must:
 - (a) be made to the Minister through the Applications Registry;
 - (b) identify the applicant and whether:
 - (i) the applicant is an Inuk and
 - (ii) if the applicant is an Inuk, whether the application is based on a traditional tenure;

- (c) identify the person who will hold the private interest applied for and whether the private interest holder will be an Inuk, Inuit or an entity wholly owned and wholly controlled by Inuit;
 - (d) identify, with precision, the lot of Labrador Inuit Lands with respect to which the application for a private interest in Labrador Inuit Lands is made;
 - (e) identify the private interest being applied for in terms of Inuit law or in terms of the Labrador Inuit Land Claims Agreement;
 - (f) state the purpose for which the private interest is requested and identify, in detail, the activities that will be carried out on the lot;
 - (g) include payment of all applicable application fees; and
 - (h) comply with any other requirement under the regulations.
- (2) Subsection 2.19(1) does not apply to applications for Instruments permitting entry on Labrador Inuit Lands for purposes of Harvesting under section 4.25 of this Act. (IL 2019-01)

Commercial Applications

- 2.20 All applications for private interests in Labrador Inuit Lands for commercial purposes must be made electronically.

Consequences of Non-Compliance

- 2.21 An application for a private interest in Labrador Inuit Lands that is not made in accordance with section 2.19 or 2.20 must not be accepted, considered or processed.

Effect of Application

- 2.22 An application for a private interest in Labrador Inuit Lands creates no interest in Labrador Inuit Lands and does not create any priority with respect to either the land or the interest for which the application is made.

Applications by Inuit

- 2.23 Despite sections 2.20 and 2.21, Inuit may make applications for private interests in Labrador Inuit Lands using paper.

Paper Applications

- 2.24 All applications for private interests in Labrador Inuit Lands made using paper must be converted by the Applications Registry to electronic data for purposes of administration.

Fees

- 2.25 (1) Except as provided in subsection (2), every applicant for a private interest in Labrador Inuit Lands must pay the fees prescribed by the regulations or by Inuit Law.
- (2) No fee is payable for an application for a private interest in Labrador Inuit Lands that is based on a traditional tenure or for the issuance of a private interest that is based on a traditional tenure.

Applications Registry to collect fees

- 2.26 The Applications Registry must collect all application, processing and access fees prescribed by the regulations or by Inuit Law.

Electronic payments

- 2.27 The Applications Registry may establish and operate an electronic payments system for the collection of application, processing and access fees.

Clearances prior to approvals

- 2.28 (1) Except as provided in subsection (2), before exercising a power to issue a private interest in Labrador Inuit Lands or transfer the administration and control of any Labrador Inuit Lands to another member of the Executive Council, the Minister must obtain clearance from all relevant departments and divisions of the Nunatsiavut Government including, without limitation, clearances in relation to:
- (a) environmental protection;
 - (b) protection of archaeological resources,
 - (c) protection of public health in relation to water supply and the disposal of waste and sewage; and
 - (d) conformity with the Land Use Plan.
- (2) Subsection (1) does not apply to the issuance of Instruments permitting entry on Labrador Inuit Lands for purposes of Harvesting” under section 4.25 of this Act. (IL 2019-01)

Decisions on Applications

- 2.29 The Minister may, with respect to an application for a private interest in Labrador Inuit Lands or an Instrument permitting entry on Labrador Inuit Lands for purposes of Harvesting: (IL 2019-01)
- (a) approve the application;
 - (b) reject the application; or
 - (c) approve the application on such terms and conditions as the Minister considers appropriate.

Private interests Subject to Environmental Protection

- 2.30 The Minister may, in issuing a private interest, establish any terms and conditions for purposes of protecting the environment that the Minister considers necessary or advisable.

Decisions are Final but may be Reviewed

- 2.31 The decision of the Minister with respect to an application for a private interest in Labrador Inuit Lands is final and may not be reviewed.

Approval of Applications

- 2.32 An application for a private interest in Labrador Inuit Lands is approved when:
- (a) in the case of a freehold title, a Certificate of Title has been issued under Part 8 with respect to the lot for which such title is issued; and
 - (b) in the case of an interest, the document granting the interest has been recorded under Part 8.

Public Access to Applications Registry Data Base

- 2.33 The public may access the data bases maintained by the Applications Registry subject to any requirements established by regulation with respect to hours of operation, security, personal privacy, confidentiality of advice given to the Minister and payment of access fees.

No Liability

- 2.34 Neither the Nunatsiavut Government nor any employee of the Nunatsiavut Government is liable to a civil action, in damages or otherwise, with respect to the processing or the determination of an application for a private interest in Labrador Inuit Lands, the operation and maintenance of the Applications Registry, the accuracy or reliability of the data bases maintained by or in the Applications Registry, or for any other act done in good faith under authority of this Act or other applicable Inuit Law.

DIVISION 3 ARCHAEOLOGY, BURIAL SITES AND HUMAN REMAINS

Definitions

- 2.35 In this Division:

"private land" means all land other than Labrador Inuit Lands within the boundaries of an Inuit Community

"minister responsible for archaeology" means the member of the Nunatsiavut Executive Council responsible for Inuit cultural affairs;

Archaeological Permitting Generally

- 2.36 (1) The minister responsible for archaeology is responsible for all consultation that is required under chapter 15 of the Agreement.
- (2) The Minister is responsible for the issuance of permits to use Labrador Inuit Lands for purposes referred to in section 2.37.
- (3) The Minister must not issue a permit for purposes of an activity referred to in section 2.37 in Labrador Inuit Lands without:
- (a) a written authorization from the minister responsible for archaeology certifying that the requirements of the agreement have been complied with; and
 - (b) incorporating such terms and conditions in the permit as may be directed by the minister responsible for archaeology for purposes of protecting Inuit cultural, spiritual and religious heritage.
- (4) The minister responsible for archaeology is responsible for the issuance of permits to carry out an activity referred to in section 2.37 on private land.

Permit Required

- 2.37 A person may not carry out an archaeological activity, disturb an archaeological site or archaeological material, excavate or disturb an Inuit burial site or a site of religious or spiritual significance to Inuit, or excavate or disturb human remains in Labrador Inuit Lands or on any private land without a permit.

Entry into Land Under a Permit

- 2.38 (1) The holder of a permit issued under subsection 2.36(2) may not enter any lot that is owned or occupied pursuant to a certificate of title without the permission of the owner or occupant of the lot unless expressly permitted to do so by the Minister under subsection 2.39(1).
- (2) The holder of a permit issued under subsection 2.36(4) may not enter private land without the permission of the owner or occupant of the private land unless expressly permitted to do so by the minister responsible for archaeology under subsection 2.39(1).
- (3) For greater certainty the holder of a permit issued under subsection 2.36.2 may enter land that is subject to an interest without the permission of the owner of the interest or the occupant of the land.

Dispensing with Owner's Consent

- 2.39 (1) The Minister or the minister responsible for archaeology, as the case may be, may authorize the holder of a permit issued under subsection 2.36(2) or 2.36(4) to enter Labrador Inuit Land or private land to conduct an activity referred to in section 2.37 without the permission of the owner or occupant of the land if the owner or occupant cannot be located after the permit holder has made reasonable efforts to do so or if the owner or occupant refuses entry and:

- (a) the Minister or the minister responsible for archaeology, as the case may be, reasonably believes a person, other than a permit holder, may be undertaking activity that may result in the disturbance of an archaeological site, archaeological material, an Inuit burial site a site of religious or spiritual significance to Inuit or human remains; or
 - (b) the Minister or the minister responsible for archaeology, as the case may be, believes on reasonable grounds that an emergency exists.
- (2) The minister responsible for archaeology must consult the Angajukak of the relevant Inuit Community before exercising the power under subsection (1) if it is practicable to do so in the circumstances.
- (3) For purposes of this section an emergency shall exist if:
 - (a) a person is willfully ignoring a law or the terms of a permit in respect of an archaeological activity, any archaeological material, an archaeological site, an Inuit burial site, a site of religious or spiritual significance to Inuit or human remains;
 - (b) any archaeological material, archaeological site, Inuit burial site, site of religious or spiritual significance to Inuit or human remains is or are in immediate danger of being destroyed or being disturbed contrary to a law or the terms of a permit; or
 - (c) the time required to obtain the permission of the owner or occupant of the land would increase the danger of any archaeological material, archaeological site, Inuit burial site, site of religious or spiritual significance to Inuit or human remains being destroyed or disturbed contrary to a law or the terms of a permit.

PART 3 TRADITIONAL TENURES IN LABRADOR INUIT LANDS

General Responsibility in Relation to Traditional Inuit Interests in LIL

- 3.1 (1) The Minister must administer and manage Labrador Inuit Lands so as to protect collective customary and traditional interests of Inuit in land, to recognize traditional tenures and, in accordance with this Act, to convert such traditional tenures to private interests.
- (2) Nothing in this Part requires the Minister to recognize a traditional tenure or to issue a private interest in land where, in the opinion of the Minister, it would be contrary to a collective customary or traditional interest in the land of Inuit or a community or group of Inuit to do so.

3.2 Repealed. (IL 2019-01)

Executive Council to Enact Regulations Providing for Recognition of Traditional Tenures

- 3.3 The Executive Council, with the advice of the Minister, must enact regulations for the purpose of resolving any disputes that might arise in relation to traditional tenures or their extent or scope. (IL 2019-01)

Inquiry into Traditional Tenures before Issuance of Private Interests

- 3.4 The Minister must not:

- (a) grant an application for a private interest in a lot under Part 2,
- (b) permit the use by the Nunatsiavut Government of an area of Labrador Inuit Lands, or
- (c) transfer the administration of any Labrador Inuit Lands to another member of the Executive Council or to the Crown

without first causing an inquiry to be made to determine whether a traditional tenure exists in relation to the lands.

Commission for Inquiries into traditional tenures in LIL

- 3.5 (1) The President must, with the consent of the Executive Council, appoint an official under the Nunatsiavut Seal to:
- (a) conduct inquiries under section 3.4; and
 - (b) advise the Minister as to whether:
 - (i) a traditional tenure exists in relation to the land;
 - (ii) a private interest based on the traditional interest should be issued to an Inuk or Inuit; and
 - (iii) the granting of an application for a private interest or other action referred to in section 3.4 will affect a traditional tenure.
- (2) The Executive Council, with the advice of the Minister, must enact regulations to establish rules and procedures for inquiries under subsection (1) including rules respecting public notice of inquiries, the onus for establishing the existence of a traditional tenure, the burden of proof for establishing traditional tenures and any presumptions that may be made in relation to traditional tenures.

Time Limit for Inquiry

- 3.6 An official acting under section 3.5 must provide his or her advice to the Minister within thirty days of receiving a referral, but the Minister may, upon request, extend the time for an enquiry for no more than an additional 60 days.

Effect of Advice

3.7 The advice of an official under paragraph 3.5(b) is not binding on the Minister.

Ministerial Decisions Following an Inquiry

3.8 Following an inquiry under section 3.4 and consideration of the advice of the official acting under section 3.5:

- (a) if the Minister determines that a traditional tenure exists in relation to the relevant area of Labrador Inuit Lands, the Minister must deny the application for a private interest in the land unless the application has been made by an Inuk or Inuit who enjoy the traditional tenure, refuse to permit the use of the land by the Nunatsiavut Government or refuse to transfer administration and control of the lands, as the case may be, and may issue a certificate of freehold title or a registered trap line to the Inuk or Inuit who are entitled to the traditional tenure;
- (b) If the Minister is unable to determine whether or not a traditional tenure exists in relation to the relevant land, the Minister may:
 - (i) deny the application for a private interest in the land, refuse to permit the use of the land by the Nunatsiavut Government or refuse to transfer administration and control of the lands, as the case may be, and cause an entry to be made in the records of the Applications Registry identifying the land as unavailable for the issuance of a private interest or a transfer, or
 - (ii) if the private interest applied for is a temporary permit or an easement that can, in the opinion of the Minister, exist without unduly interfering with a traditional tenure that may exist in respect of the land, in accordance with this Act, create and issue such private interest or permit the use of the land by the Nunatsiavut Government or transfer administration and control of the lands, as the case may be, subject to such terms and conditions as the Minister deems reasonable or advisable under all the circumstances; and
- (c) if the Minister determines that no traditional tenure exists in relation to the relevant lands and that the issuance of a private interest would not harm collective customary or traditional interests of Inuit in the land, the Minister may, in accordance with this Act, create and issue the private interest for which the application is made, permit the use of the land by the Nunatsiavut Government, or transfer the administration and control of the lands, as the case may be.

Conversion of Traditional Tenures

3.9 Where the Minister recognizes a traditional tenure under section 3.2 or subsection 3.8(a) the Minister must convert that traditional tenure to a private interest under Part 4 by issuing the appropriate certificate of freehold title or permit under Part 4 to the Inuk or Inuit who are entitled to the traditional tenure.

Traditional tenures cease to exist once converted

- 3.10 Where the Minister has issued a certificate of freehold title or permit under section 3.9 the traditional tenure on which the certificate of freehold title or permit was grounded ceases to exist under Inuit custom and tradition.

Effect of Private interest on Traditional Tenure

- 3.10 If, following an inquiry under section 3.4 and a determination under section 3.8, the Minister issues a private interest in a lot, that private interest, when recorded under Part 8, takes priority over any and all traditional tenures in the lot.

Application of this Part

- 3.11 Despite the other provisions of this Part, no traditional tenure shall be recognized or converted to a private interest in or with respect to Labrador Inuit Lands in the Inuit Communities, specified materials or water lots.

PART 4 PRIVATE INTERESTS IN LABRADOR INUIT LANDS

Private interests in Labrador Inuit Lands

- 4.1 The only tenures of Labrador Inuit Lands that are recognized under Inuit law are:
- (a) Inuit freeholds;
 - (b) life estates;
 - (c) leases;
 - (d) land use permits issued by the Nunatsiavut Government including, without limitation, permits authorizing entry and use of land in connection with archaeological activities, mineral exploration, harvesting and research;
 - (e) easements, including rights of way for roads and utilities;
 - (f) recorded trap lines; and
 - (g) encumbrances.

Private interests confined to Surface Rights

- 4.2 (1) A tenure referred to in section 4.1 does not confer or include any right, title or interest in or to any subsurface resource or any archaeological material and, unless expressly granted in an instrument issued by the Minister, does not confer or include any right title or interest in or to any specified material or any carving stone.

(2) The tenure of a Non-Beneficiary referred to clause 4.1(b), 4.1(c), 4.1(d), 4.1(e) or 4.1(g), confers no right to Harvest Wildlife or Fish on Labrador Inuit Lands and no right, title, interest or privilege in relation to any Wildlife or Fish. (IL 2019-01)

Only Inuit and Inuit Community Governments may hold Inuit Freehold title

4.3 Only an Inuk, Inuit, an Inuit Community Government or an entity that is at all times wholly owned and wholly controlled by an Inuk, Inuit or an Inuit Community Government may hold Inuit freehold title. (IL-2008-06 s.1)

Private interests Subject to Land Use Plan

4.4 Every private interest is subject to the Land Use Plan and no private interest may be used for any purpose that is not consistent with the Land Use Plan.

Private interests revert to the Nunatsiavut Government

4.5 Every tenure under section 4.1 reverts to the Nunatsiavut Government:

- (a) in accordance with this Act;
- (b) in accordance with the terms of the instrument that established the tenure;
- (c) on termination of the tenure;
- (d) if the owner of the tenure dies intestate and dies without heirs who are eligible to hold the tenure; or
- (e) if the owner of the tenure is wound up or dissolved.

Additional Terms and Conditions

4.6 The Minister may establish, under the provisions of the instrument creating a tenure in Labrador Inuit Lands under section 4.1, and in addition to any term or condition specifically established or authorized under this Act, such other additional restrictions, terms and conditions that the Minister considers advisable having regard to the intended uses that will be made of the land.

Inuit Personal Freehold

4.7 Inuit freehold:

- (a) is a right of title to the surface of the lot in respect of which it is issued;
- (b) does not include any right to specified materials or subsurface resources;
- (c) is indeterminate in its duration;
- (d) includes the right to exclusive possession of the lot subject to any marital property interest;

- (e) includes the power of disposition during the owner's life subject to any marital property interest and except as set out in this section;
- (f) may be held only by an Inuk, named Inuit, or an entity that is at all times wholly owned and wholly controlled by an Inuk or by Inuit;
- (g) may be conveyed, transferred, sold or otherwise disposed of to an Inuk, named Inuit, or an entity that is at all times wholly owned and wholly controlled by an Inuk or by Inuit;
- (h) may be leased to any person for a term, including all renewals and extensions of the term, not exceeding 50 years;
- (i) may be encumbered; and
- (j) lapses and is extinguished if:
 - (i) any specified material or subsurface resource is removed from the lot, or an attempt is made to remove any specified material or subsurface resource from the lot;
 - (ii) the right of title to the lot is conveyed, transferred, sold or otherwise disposed of to a person other than an Inuk, named Inuit, or an entity that is at all times wholly owned and wholly controlled by an Inuk or by Inuit or any attempt is made to convey, transfer, sell or otherwise dispose of the title to a person other than an Inuk, named Inuit, or an entity that is at all times wholly owned and wholly controlled by an Inuk or by Inuit;
 - (iii) the owner of the Inuit freehold dies without having transferred the right of title by will to an Inuk, named Inuit, or an entity that is at all times wholly owned and wholly controlled by an Inuk or by Inuit and without heirs who are eligible to hold the private interest;
 - (iv) in the event of a failure of a testamentary gift; or
 - (v) the owner of the Inuit freehold is dissolved, wound-up or otherwise liquidated.

Reversion on Lapse of Freehold

- 4.8 Upon the lapse and extinguishment of an Inuit freehold title under paragraph 4.7(j) all lesser estates in the lot are extinguished and the title reverts to the administration and control of the Nunatsiavut Government.

Life Estates

- 4.9 A life estate in Labrador Inuit Lands:

- (a) is a right of title to the surface of the lot in respect of which it is created;

- (b) does not include any right to specified materials or subsurface resources;
- (c) may be owned by any individual;
- (d) includes the right to exclusive possession of the lot;
- (e) includes the power of disposition subject to subsection (g) and section 4.10;
- (f) can be used as security subject to section 4.10; and
- (g) is determined by the life of the individual to whom it is originally granted and terminates upon the death of the individual to whom it was originally granted.

Effect of Termination of a Life Estate

4.10 Upon the termination of a life estate all lesser estates are extinguished.

Leases

4.11 A leasehold interest in Labrador Inuit Lands:

- (a) is an exclusive right of possession of the surface of the lot in respect of which it is created;
- (b) subject to section 4.10 may be granted for a fixed term, including all renewals and extensions of the term, not exceeding 50 years;
- (c) does not include any right to specified materials or subsurface resources;
- (d) may be held by any person;
- (e) includes the power to sublease with the consent of the lessor;
- (f) is subject to the obligation to pay rent as stipulated in the lease agreement; and
- (g) can be used, during its term, as security.

Permits

4.12 The Nunatsiavut Government may, by written instrument, issue permits to enter and carry out activities in lots of Labrador Inuit Lands for the purpose or purposes set out in the permit including, without limitation, for purposes of:

- (a) archaeology;
- (b) research; and
- (c) mineral exploration in accordance with an approved work plan.

4.13 A permit:

- (a) may be issued to any person;
- (b) grants no right, title or interest in the land or any specified materials or subsurface resources and grants no right to exclude or eject Inuit unless otherwise specifically stated in the permit;
- (c) must be for a term of years not exceeding 5 years, including renewals and extensions;
- (d) may require the payment of consideration, a fee or an annual fee;
- (e) is not assignable or transferable;
- (f) may not be encumbered;
- (g) may be issued subject to such terms and conditions as the Minister may deem necessary or advisable or as may be established under the regulations or Inuit Law; and
- (h) may be revoked by written order of the Minister for any failure to comply with the terms and conditions of the permit or for a breach of this Act or any other Inuit Law by the permit holder.

Marital Interests

- 4.14 Except as proved in section 4.15, a spouse may have a marital property interest in accordance with laws of general application in an Inuit freehold, life estate or leasehold in Labrador Inuit Lands.

Marital Interest is a Life Estate if Spouse is not Eligible to Hold Inuit Freehold Title

- 4.15 Where a spouse has a marital property interest in a lot of Labrador Inuit Lands that is held as Inuit freehold and the spouse is not an Inuk, the marital property interest shall be a life estate.

Aulâvik Freehold

4.16 An Aulâvik freehold:

- (a) is a right of title to the surface of the lot in respect of which it is granted that is held by a specified Inuk for the use and benefit, in common, of an Inuit family or a number of Inuit families all of the members of which are either named or are capable of being identified by name;
- (b) does not include any right to specified materials or subsurface resources;
- (c) is indeterminate in its duration;

- (d) includes the right to exclusive possession of the lot by the specified Inuk for the use and benefit, in common, of the Inuit who are either named or who are otherwise capable of being identified by name;
- (e) includes no power of disposition except as provided in section 4.18;
- (f) cannot be encumbered; and
- (g) lapses and is extinguished if:
 - (i) any specified material or subsurface resource is removed from the lot, or an attempt is made to remove any specified material or subsurface resource from the lot;
 - (ii) the right of title to the lot is used as security or conveyed, transferred, sold or otherwise alienated to any person or any attempt is made to use the right of title to the lot as security or to convey, transfer, sell or otherwise alienate the title to any person;
 - (iii) the aulâvik is abandoned or is not used for a period of 5 consecutive years; or
 - (iv) there is no recorded title holder for the Aulâvik.

Responsibility for Administration of Aulâvik Freehold

- 4.17 The Inuk to whom a certificate of Aulavik freehold title is issued by the Registrar of Land Titles is deemed to be the owner and is responsible for the administration of all matters in relation to the title and the lot to which it relates.

Change of Titleholder of an Aulâvik Freehold

- 4.18 The owner of an Aulâvik freehold title may be changed from time to time on the written request of the owner if:
- (a) the individual who will become the recorded title holder is an Inuk;
 - (b) the individual who will become the recorded title holder is one of the Inuit entitled to the use and benefit of the Aulâvik; and
 - (c) the Inuk who will become the recorded title holder has consented in writing to have title recorded in his or her name and to be responsible for the administration of all matters in relation to the Aulâvik freehold as provided in section 4.17.

Registered Trap Lines

- 4.19 The Nunatsiavut Government may, by written instrument, issue registered trap line permits to Inuit.
- 4.20 A registered trap line permit:

- (a) may be issued in relation to a defined area of Labrador Inuit Lands;
- (b) may be issued only to an Inuk who is the holder of a trapping license;
- (c) is valid only while the holder is also the holder of a trapping license;
- (d) gives the holder of the permit the exclusive right to trap in the defined area specified in the permit;
- (e) gives the holder of the permit the right to spring and remove any trap set out by any other person for the purpose of taking furbearing animals within the area of the permit holder's recorded trap;
- (f) subject to approved by the Minister, entitles the permit holder to construct, use and occupy one or more trapper's cabins or tilts within the area of the permit holder's recorded trap;
- (f) may not be encumbered;
- (g) may be assigned to another Inuk with the consent of the Minister;
- (h) may be subject to the payment of a fee or an annual fee; and
- (i) is subject to such terms and conditions as the Minister may deem necessary or advisable or as may be established under the regulations or Inuit Law.

Easements

- 4.21 (1) An easement may be created and issued under written instrument by the Nunatsiavut Government over any Labrador Inuit Lands other than lots held as Inuit freehold.
- (2) Despite subsection (1), when the Nunatsiavut Government authorizes and issues freehold title it may issue the freehold title subject to an easement.
- (3) The owner of an Inuit freehold may, by written instrument, grant an easement on or over his or her lot subject to subsection (4).
- (4) Unless an easement is granted under subsection (3) for a public right of way or a public transportation route, or is granted to a person for purposes of a power line, a pipeline or similar use as specified in section 8.43, the easement must accommodate a dominant tenement that is on or within the same parcel of Labrador Inuit Lands as the lot over which the easement is granted.
- (5) An easement:
- (b) does not confer any right to or interest in specified materials or subsurface resources;

- (c) expires or determines upon the extinguishment or determination of the dominant tenement;
- (d) may be conveyed, transferred, sold, leased or otherwise disposed of by the owner of a private interest in the dominant tenement only together with the conveyance, transfer, sale, lease or other disposition of a private interest in the dominant tenement;
- (e) is not affected by the conveyance, transfer, sale, lease or other disposition of a private interest in the servient tenement;
- (f) may be encumbered; and
- (g) despite any other provision of this Act, continues unaffected if the Inuit freehold title to the servient lot lapses or is extinguished.

Encumbrances

- 4.22 A private interest in Labrador Inuit Lands may be encumbered only if this Act permits the interest to be encumbered.

Encumbrance as security

- 4.23 An encumbrance under this Act has effect as security but does not operate as a transfer of the private interest or of the lot charged by the encumbrance.
- 4.24 An encumbrance ceases to exist upon the extinguishment, termination or lapse of the private interest charged by it.

Entry by Non-Beneficiaries for purposes of Harvesting

- 4.25 (1) The Nunatsiavut Government may by written Instrument permit a Non-Beneficiary to enter Labrador Inuit Lands or a Parcel or piece of Labrador Inuit Lands for the purposes of Harvesting and may, by regulation or in terms of the Instrument, prescribe, restrict or prohibit Harvesting or Harvesting activities under the Instrument.
- (2) The Minister may make arrangements and agreements with owners or operators of recreational camps for the purpose of permitting their guests to enter Labrador Inuit Lands or a Parcel or piece of Labrador Inuit Lands for purposes of Harvesting subject to such terms and conditions as the Minister may prescribe.
- (3) The Minister may authorize a person, including a Non-Beneficiary or a legal entity, to enter Labrador Inuit Lands or a Parcel or piece of Labrador Inuit Lands by aircraft for purposes of Harvesting subject to such terms and conditions as the Minister may prescribe. (IL 2019-01)
- 4.26 An Instrument issued under section 4.25 of this Act:

- (a) grants the person named therein permission to be on Labrador Inuit Land conditional upon compliance at all times with the terms and conditions of the Instrument;
- (b) creates no right, title or interest in land;
- (c) is personal and is not assignable or transferable;
- (d) must be produced for inspection by an employee, officer or agent of the Nunatsiavut Government by the person named in the Instrument on request,
- (e) is revocable by the Nunatsiavut Government at will and without notice;
- (f) shall in the case of a licence or permit be for a term not exceeding 1 year and in the case of any other Instrument a term not exceeding 5 years and shall not be renewed or extended;
- (g) may require the payment of a fee; and
- (h) may be issued subject to such additional terms and conditions as the Nunatsiavut Government may deem necessary or advisable or as may be established in regulations made under section 4.30 of this Act (IL 2019-01)

4.27 The Minister may, without giving prior notice, revoke, suspend or vary the terms of any Instrument issued under section 4.25 of this Act and an official designated in regulations under section 4.30 of this Act to enforce permits, licences or other Instruments issued under section 4.25 may, without giving prior notice, revoke or suspend the permit or license of a permit holder who has breached this Act, a regulation under section 4.30 or the terms and conditions set out in the permit or licence. (IL 2019-01)

4.28 Notice of revocation, suspension or variance of an Instrument under section 4.27 of this Act may be given verbally or in writing and may be delivered personally, by mail or by public notice. (IL 2019-01)

4.29 The Nunatsiavut Government may refuse to issue an Instrument under section 4.25 of this Act to a person who the Minister or an enforcement officer has found to be in breach of this Act, a regulation made under this Act or a term or condition applicable to or established by an Instrument issued under section 4.25. (IL 2019-01)

4.30 The Executive Council may, acting on the advice of the Minister, make regulations for the general purpose of implementing sections 4.25 to 4.29, inclusive, of this Act including, without limitation, regulations:

- (a) respecting Instruments that permit entry on Labrador Inuit Lands for purposes of Harvesting by Non-Beneficiaries under sections 4.25 and the Harvesting activities that may be carried out under those Instruments;

- (b) prescribing the form and content of applications for Instruments referred to in section 4.25, the information required to be provided in connection with an application and the Nunatsiavut Government official or officials to whom an application must be made;
- (c) prescribing the form and content of Instruments referred to in section 4.25 and designating the Nunatsiavut Government official or officials and their delegates who are authorized to issue them;
- (d) establishing fees payable for Instruments under section 4.25 and providing for the waiver of fees in certain circumstances;
- (e) providing for the termination or revocation of Instruments issued under section 4.25 and designating officials who may enforce, terminate or revoke them;
- (f) establishing the terms and conditions applicable to Instruments under section 4.25 including without limitation terms and conditions respecting access, Harvesting, conservation, Environmental protection and permitted non-Harvesting activities;
- (g) differentiating amongst different classes or categories of persons holding Instruments issued under section 4.25 including, without limitation, Non-Beneficiaries harvesting for or on behalf of dependent Beneficiaries, Non-Beneficiaries Harvesting at or from a Commercial Wildlife Operation or other recreational lodge, camp or facility, and Non-Beneficiaries who hold leases, life estates or permits under section 4.12 of this Act; and
- (h) defining words and phrases used in section 4.25 of this Act and that may be necessary for implementation of section 4.25. (IL 2019-01)

PART 5 LAND USE PLAN

Transitional

- 5.1 No person may use or develop any Labrador Inuit Land for commercial or industrial purposes before the Land Use plan under Chapter 10 of the Agreement is in effect in Labrador Inuit Lands.
- 5.2 Despite section 5.1 a person who wishes to develop any Labrador Inuit Lands for commercial or industrial purposes before the Land Use plan is in effect may, with the written consent of the Minister, petition the Assembly for an Act of the Assembly authorizing the development on such terms and conditions as the Assembly may deem necessary or desirable.
- 5.3 The Minister must not issue written consent to the introduction of a petition under section 5.2 unless the Minister has, after such consultations as the Minister deems necessary or advisable, determined that:
 - (a) the development is in the best interests of the Inuit;

- (b) the development is Environmentally sustainable;
- (c) the development will not unduly compromise the Land Use Plan; and
- (d) the private interest or private interests applied for may be issued under this Act.

5.4 If the Minister consents to the introduction of a petition under section 5.2, the Minister is responsible for introducing the Petition in the Assembly and, if the Petition is approved, for preparing and introducing a bill for an Act of the Assembly authorizing the development to proceed.

5.5 The Minister must:

- (a) obtain the advice of the Executive Council before providing any views during a consultation under section 10.9.1 of the Agreement
- (b) obtain the approval of the Assembly before issuing a consent under subsection 10.9.2(a) of the Agreement.

Land Use Planning Process under the Agreement

5.6 The Minister is responsible for all procedures related to the establishment of a land use plan under the Agreement in accordance with this Part.

5.7 The Minister must:

- (a) table the draft of the land use plan referred to in section 10.4.6 of the Agreement in the Assembly as soon as practicable;
- (b) table the draft of the land use plan referred to in section 10.5.5 of the Agreement in the Assembly as soon as practicable; and
- (c) obtain the consent of the Executive Council before:
 - (i) providing any views to the Provincial government in relation to water use in Labrador Inuit Lands or under the land use plan during consultations by the Provincial minister under the Agreement;
 - (ii) adopting the draft of the land use plan under section 10.4.7 of the Agreement; and
 - (iii) making any final decision under section 10.6.2 of the Agreement.

5.8 Subject to subsection 5.7(c), the Minister is responsible for:

- (a) consulting with the Government of Newfoundland and Labrador for purposes of agreeing on the joint appointment of the Regional Planning Authority;

- (b) providing opportunities and mechanisms for the Inuit and the Nunatsiavut Government to participate in the land use planning process that are additional to and in preparation for the public hearings under part 10.5 of the Agreement; and
 - (c) consultation and liaison with the Government of Newfoundland and Labrador, the Provincial Minister, the Regional Planning Authority and the planner that may be necessary or desirable in relation to the preparation, approval and implementation of the Land Use Plan.
- 5.9 The Minister may, subject to appropriations, retain the services of a qualified land use planner to provide advice to the Nunatsiavut Government for purposes of the preparation of the land use plan but no such retainer may be for a period in excess of 3.5 years.
- 5.10 It shall be a term of any retainer under subsection (1) that the planner must appear before the Assembly to provide advice and answer questions when requested to do so.

Effect of Land Use Plan

- 5.11 When it comes into effect in Labrador Inuit Lands, the land use plan binds the Nunatsiavut Government, applies to all Labrador Inuit Lands, lots and private interests, and binds the owners of private interests.

PART 6 PROTECTED AREAS

How Protected Areas Established

- 6.1 A Protected Area may be established in Labrador Inuit Lands:
- (a) by an Act of the Assembly; or
 - (b) by order of the President-in-Council.

Purpose of Protected Areas

- 6.2 Unless otherwise stated in an order or Act establishing a protected area the purpose of a protected area shall be to protect the natural environment and ecological integrity of the protected area.

Prohibitions and Restrictions Applicable in Protected Area

- 6.3 An Act or order establishing a protected area must set out
- (a) the boundaries of the protected area;
 - (b) the purpose or purposes for which the protected area is established if different from the purpose set out in section 6.2;
 - (c) the activities and land uses that are prohibited in the protected area;

- (d) whether any dealings with private interests in lots within the protected area are permitted or permitted subject to restrictions; and
- (e) the restrictions that apply to those activities, land uses and dealings in land that are permitted in the protected area.

Private Interests in Protected Areas

- 6.4 No private interest may be created or issued by the Nunatsiavut Government in lands within a protected area other than under a permit that is issued in connection with the purpose for which the protected area is established.

The Minister is Responsible for Protected Areas

- 6.5 The Minister:
- (a) is responsible for the administration and management of protected areas;
 - (b) may enter into agreements with federal, provincial and aboriginal governments, ministers and agencies, for purposes of establishing, managing and administering protected areas.
 - (c) may make regulations for giving effect to the provisions of this Part.

PART 7 TRANSFER OF ADMINISTRATION AND CONTROL OF LABRADOR INUIT LANDS TO THE CROWN OR TO INUIT COMMUNITY GOVERNMENTS

Limitation on Transfers to Crown

- 7.1 The Nunatsiavut Government may not transfer the entire estate of the Inuit in any Labrador Inuit Lands to the Crown except under an Act made in accordance with part 4.18 of the Constitution.

Transfers with consent of Executive Council

- 7.2 The Minister may, with the consent of the Executive Council, transfer a lot of Labrador Inuit Lands to the administration and control of the Crown or to the administration and control of an Inuit Community Government and the transfer may be made subject to section 7.6 and to any other conditions, restrictions or limitations that the Executive Council considers necessary or advisable. (IL-2008-06 s.2)

Transfers that are Subject to the Consent of the Assembly

- 7.3 Transfers under section 7.2 must not exceed, in aggregate, 10 hectares without the consent of the Assembly.

Issuance of Leases and Permits to the Crown

- 7.4 Nothing in section 7.2 prevents the Minister from issuing a lease or a permit to the Crown in accordance with this Act.

Issuance of interests in the Labrador Inuit Lands to Inuit Community Governments

7.5 Nothing in section 7.2 prevents the Minister from issuing Inuit freehold title, a lease or a permit to an Inuit Community Government in accordance with this Act. (IL-2008-06 s.1)

Effects of Transfers of Administration and Control

7.6 A transfer of the administration and control of the Labrador Inuit Lands in accordance with section 7.2 does not confer or create a private interest in Labrador Inuit Lands and does not give the transferee a right to create or convey any interest in the lands pursuant to a law of general application. (IL-2008-06 s.1)

PART 8 LABRADOR INUIT LAND TITLES REGISTRY

DIVISION 1 GENERAL

References to this part

8.1

This part may be cited as the *Labrador Inuit Lands Titles Act*.

Definitions and Interpretation

8.2

For the purposes of this part the following definitions apply:

“endorsed” and “endorsement” apply to anything entered, printed, stamped or written on an instrument or on any paper attached to it by the Registrar of Land Titles;

“memorandum” means an endorsement on a certificate of title of the particulars of an instrument, other than a transfer, that affects land to which the certificate of title pertains and that has been recorded;

“overriding interest” means:

- (a) any subsisting rights of the Crown in the land under the Labrador Inuit Land Claims Agreement
- (b) any subsisting reservations or exceptions, including rights of the Labrador Inuit to subsurface resources, contained in the original grant of the lot from the Nunatsiavut Government,

- (c) all unpaid taxes,
- (d) any public right of way, utility easement or other public easement on, over or in respect of the lot,
- (e) any subsisting lease or agreement for a lease for a period not exceeding 3 years, if there is actual occupation of the land under the lease or agreement,
- (f) any right of expropriation that may by legislation be vested in any person, and
- (g) any right of way or other easement granted or acquired under any Act or law in force in Labrador Inuit Lands;

"record" means to secure priority of enforcement for a private interest by recording the instrument that identifies the relevant interest and lot by means of an entry in the Register of Titles;

Purpose

8.3

The purpose of this Part is to facilitate the administration and management of Labrador Inuit Lands and private interests in Labrador Inuit Lands by establishing a system for the recording of private interests in Labrador Inuit Lands that will:

- (a) provide certainty in ownership of private interests in Labrador Inuit Lands;
- (b) make the proof of ownership of private interests in Labrador Inuit Lands as simple as possible; and
- (c) facilitate the economic and efficient execution of transactions affecting private interests in Labrador Inuit Lands.

Application of this Part

8.4

This Part applies to Labrador Inuit Lands, every lot and every private interest in a lot.

DIVISION 2 PRIMARY RULES OF THE LABRADOR INUIT LAND TITLES SYSTEM

Requirements for a private interest in Labrador Inuit Lands

8.5

- (1) When the Nunatsiavut Government issues a private interest in a lot, the Nunatsiavut Government must cause the private interest to be recorded in the Land Titles Registry and identify the lot in relation to which the private interest is issued.

- (2) A private interest in a lot issued by the Nunatsiavut Government comes into existence when the private interest has been recorded in the Land Titles Registry in relation to the lot in which it exists.

Private interests in Labrador Inuit Lands Issued by the Nunatsiavut Government

8.6

- (1) When a private interest recorded under section 8.5 is an Inuit freehold title or an aulâvik freehold title the Registrar of Land Titles must deliver a certificate of title to the owner of the estate.
- (2) When any other interest issued by the Nunatsiavut Government has been recorded in the Land Titles Registry under section 8.5 the Registrar of Land Titles must make a record of the interest and deliver to the owner of the interest the instrument under which the interest is granted.

Private Transactions in Labrador Inuit Lands

8.7

- (1) Subject to this Act, the owner of an Inuit freehold title may sell or transfer the title to a person who is eligible under this Act to hold the title.
- (2) The owner of an Inuit freehold title may by written instrument create and grant, sell, convey or otherwise transfer a lesser estate in the lot.
- (3) Either the transferor or the transferee in a transaction referred to in this section may, by complying with this Act, record the instrument of transfer.
- (4) Where an instrument that transfers freehold title is recorded in the Registry of Land Titles the Registrar of Land Titles must cancel the certificate of title of the owner and deliver a certificate of title to the transferee.
- (5) Where an instrument that transfers a lesser estate is recorded in the Registry of Land Titles the Registrar of Land Titles must make a memorandum of the lesser estate on the certificate of title to the lot in which the lesser estate is held.
- (6) Where a person claims an interest in a lot, that person may, as provided in this Part, file a caveat.
- (7) Where a caveat is recorded in the Registry of Land Titles the Registrar of Land Titles must make a memorandum of the caveat on the certificate of title in respect of which the caveat is recorded.

8.8

- (1) An Inuit freehold title may be subject to an overriding interest.
- (2) An Inuit freehold title may be subject to a lesser estate or may be encumbered.
- (3) An instrument establishing a lesser estate or an encumbrance and any instrument other than a transfer of the freehold title, is deemed to be recorded when the instrument has been recorded in

the Registry of Land Titles by the Registrar of Land Titles and when a memorandum has been endorsed by the Registrar on the certificate of title.

- (4) Every memorandum shall state the number of the lot to which it relates, the nature of the instrument, the serial number of the instrument, the date on which the serial number was assigned and any other particulars that the Registrar of Land Titles considers to be appropriate.
- (5) No memorandum is required to be endorsed on a certificate of title with respect to an overriding interest.

Transfers are Subject to Overriding Interests and Encumbrances

8.9

- (1) An estate will pass subject to overriding interests and any prior interest in the lot as evidenced by a memorandum or caveat recorded in the Register of Titles against the certificate of title to the lot.
- (2) Every successive owner of an estate is affected with notice of a prior condition or covenant included in an instrument recorded by way of a memorandum or caveat against the certificate of title to the lot and is bound by the conditions and covenants if they are of such nature as to run with the land.

Instruments of Transfer

8.10

A transfer of freehold title must:

- (a) conform to the requirements of this Part and the regulations,
- (b) identify the lot in which the title is held,
- (c) identify the person transferring the interest in the lot
- (d) identify the transferee, and
- (e) have appended to it the transferor's certificate of title or a duplicate copy of the transferor's certificate of title certified by the Registrar of Land Titles.

Effect of Recording

8.11

- (1) The owner of a lot in whose name a certificate of title has been granted by the Registrar of Titles shall, except in case of fraud in which the owner has participated or colluded, hold the lot, subject to the provisions of this Act and subject to the memoranda and caveats that are endorsed on the certificate of title, absolutely free from all other estates, encumbrances, or interests.

- (2) The priority under subsection (1) shall, in favour of any person in possession of a lot, be computed with reference to the grant or earliest certificate of title under which the person claiming priority or any person through whom that person derives title has held possession.

Effect of Certificate of Title

8.12

- (1) Every certificate of title granted by the Registrar of Titles (except in case of fraud in which the owner has participated or colluded), so long as it remains in force and has not been cancelled under this Act, is conclusive proof in all courts as against the Nunatsiavut Government and all other persons that the person named in the certificate of title is entitled to the lot included in the certificate for the estate specified in the certificate, subject to any overriding interests and subject to memoranda and caveats that are endorsed on the certificate of title, except so far as regards any portion of land by wrong description of boundaries or parcels included in the certificate of title and except as against any person claiming under a prior certificate of title granted under this Act in respect of the same land.
- (2) For the purpose of subsection (1), a person is deemed to claim under a prior certificate of title if that person's claim is derived directly or indirectly from the person who was the holder of the earliest certificate of title granted, despite the surrender of the certificate of title and the grant of a new certificate of title has been granted.
- (3) A person contracting or dealing with or taking or proposing to take a transfer, encumbrance, lease or other interest from an owner is entitled to rely on the certificate of title and is not, except in the case of fraud by that person,
- (a) bound or concerned, for the purpose of obtaining priority over a trust or other interest that is not recorded by instrument or caveat, to inquire into or ascertain the circumstances in or the consideration for which the owner or any previous owner of the interest acquired the interest or to see to the application of the purchase money or any part of the money, or
 - (b) affected by any notice, direct, implied or constructive, of any trust or other interest in the land that is not recorded by instrument or caveat, any rule of law or equity to the contrary notwithstanding.
- (4) The knowledge of the person that any trust or interest that is not recorded by instrument or caveat is in existence shall not of itself be imputed as fraud.
- (5) In subsection (3):
- (a) "interest" includes any estate or interest in land; and
 - (b) "owner" means
 - (i) the owner of an interest in whose name a certificate of title has been granted,

- (ii) the owner of any other recorded interest in whose name the interest is recorded,
or
- (iii) the caveator or transferee of a caveat in whose name the caveat is recorded.

DIVISION 3 THE LABRADOR INUIT LAND TITLES REGISTRY

Labrador Inuit Land Registration Office

8.13

The Labrador Inuit Land Titles Registration Office is hereby established under the supervision of an officer of the Nunatsiavut Government called the Registrar of Labrador Inuit Land Titles whose primary function is to maintain and administer the Register of Titles in accordance with this Act and the regulations.

Responsible Minister

8.14

The Minister is responsible for the maintenance and administration of the Labrador Inuit Land Registration Office and the Register of Titles.

Minister to Appoint the Registrar of Land Titles

8.15

- (1) The Minister must, in accordance with the *Nunatsiavut Civil Service Act*, appoint a person to be the Registrar of Labrador Inuit Land Titles.
- (2) The Registrar of Land Titles must have a seal of office.

Registrar's Functions

8.16

The Registrar of Land Titles must:

- (a) operate, or supervise and direct the operation of, the Labrador Inuit Land Registration Office and the land titles recording system established under this Act,
- (b) maintain, or supervise and direct the maintenance of, the Register of Titles so that it is comprehensive, complete and current;
- (c) supervise and direct the persons employed in the Labrador Inuit Land Registration Office, if any, in the performance of their duties and the exercise of their powers; and

- (d) perform the duties prescribed by this Act or directed by the Minister.

The Register of Titles

8.17

The Register of Titles is comprised of duplicate originals of certificates of title organized in relation to lots and in accordance with this Part.

Contents of Register of Titles

8.18

- (1) The Register of Titles must contain:
 - (a) the lot identification number assigned to the lot.
 - (b) the civic address of the lot, if any;
 - (c) the general location of the lot;
 - (d) a description of the lot;
 - (e) the direct or indirect right of access to the lot, if any, from a public street, highway, recognized trail, right of way or navigable waterway;
 - (f) the name and mailing address of the recorded owner of the lot;
 - (g) a description of all memoranda and caveats affecting the lot; and
 - (i) any other information that may be required by this section, the regulations or an Inuit Law.
- (2) The Registrar of Land Titles may keep the records required under this Act
 - (a) in written form,
 - (b) by any graphic, photographic, magnetic or electronic means, or
 - (c) by any other means or combination of means,as the Registrar of Land Titles considers appropriate or the regulations may direct.
- (3) The Registrar of Land Titles must keep a daily record that shall contain particulars of every instrument accepted by the Registrar of Land Titles for recording.
- (4) The Registrar of Land Titles must examine each instrument received for recording, or cause it to be examined, and if it is found to be complete, in the proper form and fit for recording, must

endorse on the instrument the serial number assigned to it and the date on which the serial number is assigned.

- (5) For purposes of priority between encumbrancees, transferees and others, the serial number assigned to the instrument under subsection (4) shall determine the priority of the instrument recorded.
- (6) The Registrar of Land Titles shall keep each certificate of title and shall endorse on it the particulars of all instruments, encumbrances, dealings and other matters required to be recorded on the certificate of title and affecting the lot included in it and the certificates of title so kept constitute the "Register of Titles".
- (7) The Registrar of Land Titles must provide for the security and safety of all records held in the Land Titles Registry and for that purpose must, as prescribed by the regulations or by any method the Registrar of Land Titles considers appropriate, keep a duplicate record of:
 - (a) each certificate of title;
 - (b) a new certificate of title when it is issued;
 - (c) a certificate of title after a memorandum or caveat is endorsed on it; and
 - (d) an instrument accepted for recording.
- (8) The Register of Titles must be supported by:
 - (a) an index of parcels of Labrador Inuit Lands;
 - (b) an index of lots within each parcel of Labrador Inuit Lands;
 - (c) an index of owners; and
 - (d) a log of all recordings organized by serial number.
- (9) The Registrar of Land Titles must maintain such other indexes and systems to support the Land Titles Registry as may be prescribed by regulation or as the Registrar of Land Titles may deem necessary or advisable.
- (10) The Registrar of Land Titles must maintain the Register of Titles so as to permit any person examining the Register of Titles to view and to obtain a copy of any document recorded in the Register of Titles or incorporated in the Register of Titles by reference.
- (11) On receiving a request for a search and the payment of the prescribed fee and on the fulfilment of any conditions, criteria or qualifications prescribed by regulation, the Registrar of Land Titles shall furnish a search of the information contained in the Register of Titles.

Lot Identification Numbers

- (1) A lot identification number must be established by the Nunatsiavut Government when it issues a private interest in a lot.
- (2) The Registrar of Land Titles may, for purposes of recording a subdivision or consolidation of a lot or for other purposes related to the administration of the Land Titles Registry, establish identification numbers in respect of a lot that are additional to those referred to in subsection (1).
- (3) The lot identification number must be set out as part of the description of every lot.

Public Access to the Land Titles Registry

8.20

During the open hours of the Land Titles Registry any person who has paid the amount prescribed by regulation:

- (a) may examine the Register of Titles or a document incorporated in the Register of Titles by reference and recorded in the Land Titles Registry.
- (b) shall be given a copy of the Register of Titles or a document incorporated in the Register of Titles and recorded in the Land Titles Registry.
- (c) shall be given a certified copy of the Register of Titles or document incorporated in the Register of Titles and recorded in the Land Titles Registry certified by the Registrar of Land Titles.
- (d) shall be given the results of a search conducted by the Registrar of Land Titles of the information contained in the Register of Titles.
- (e) may make application to the Registrar of Land Titles to record an instrument or related document by complying with this Act and the regulations.

DIVISION 4 RECORDABLE INTERESTS AND RECORDING

Registrar of Land Titles to Enforce Recording Requirements

8.21

The Registrar of Land Titles must not record or permit the recording of:

- (a) an interest or encumbrance that is not recordable under this part;
- (b) a private interest in the name of a person who is not eligible to own the interest;
- (c) an instrument or document that does not meet the requirements of this Act or the regulations; or
- (d) an instrument or document for which the fees prescribed under this Act or the regulations have not been paid or waived pursuant to subordinate legislation enacted by the President-in-Council.

Recordable Interests

8.22

- (1) A private interest in Labrador Inuit Lands submitted for recording by the Nunatsiavut Government under this Act and the transfer by a person to whom a certificate of title has been issued of the Inuit freehold title or of lesser estate or the encumbrance of an estate may be recorded in accordance with this Act.
- (2) A person who claims an interest in an estate that is not recordable under subsection (1) may file a caveat in respect of such interest.

Recording of Private interests issued by Nunatsiavut Government

8.23

- (1) A private interest issued by the Nunatsiavut Government is recorded by the Minister submitting an instrument that creates and describes the interest to the Registrar of Land Titles and issuing a written directive to the Registrar of Land Titles to record the instrument.
- (2) If an instrument submitted under subsection (1) does not comply with or contain the information required by this Act or the regulations in order to be recorded under this Act, the Registrar of Land Titles must request and obtain from the Minister a perfected instrument or the required information before the instrument may be recorded.
- (3) No fee is payable by the Minister in respect of a submission under subsection (1).
- (4) The Registrar of Land Titles must collect all recording fees payable in respect of a private interest granted by the Nunatsiavut Government before recording an instrument submitted under subsection (1).
- (5) Despite any other provision of this Act or any regulation, if the owner is a department or institution of the Nunatsiavut Government, no fee is payable under subsection (4).

Recording of Private interests by Persons Other than the Nunatsiavut Government

8.24

- (1) A person other than the Nunatsiavut Government may apply to the Registrar of Land Titles to record a transfer of the Inuit freehold title in a lot or an instrument evidencing an estate or that grants a caveat.
- (3) The Registrar of Land Titles must record an instrument in the Register of Titles on application under subsection (1) if:
 - (a) the interest described in the instrument is recordable;
 - (b) the person from whom the interest is transferred is the owner of the interest and satisfactory proof has been provided that the person making the instrument is an adult;

- (c) the interest is transferred by operation of Inuit Law or by an instrument effective under Inuit Law to transfer the private interest;
 - (d) the person who will acquire the private interest is eligible to do so and has complied with all other legal requirements;
 - (e) the instrument submitted for recording includes the lot identification number of the lot to which it applies and the full name and proper mailing address of the transferee, grantee, encumbrancee or caveator;
 - (f) the nature of the private interest is clearly identified and an official authorized by Inuit Law has certified that it is recordable under paragraph (a); and
 - (g) the applicable fees have been paid.
- (4) No person may acquire an estate in a subdivided lot, whether the person is the owner of the lot being subdivided or otherwise, and no person may acquire an estate in a consolidation of two or more lots, whether the person is the owner of the lots being consolidated or otherwise, unless, in addition to the other requirements of this Act:
- (a) the subdivision or consolidation has been approved in writing by the Minister;
 - (b) a new lot identification number has been issued in respect of every new lot that results from the subdivision or consolidation; and
 - (c) the instrument subdividing a lot is signed by each person shown on the certificate of title for the lot as having an interest or claim in the lot pursuant to a recorded instrument or caveat if the interest or claim is affected by the subdivision.
- (5) The following are authorized to make certifications for purposes of paragraph (3) (f):
- (a) an official of the Minister's department authorized to do so by the regulations; and
 - (b) a lawyer.
- (6) When an instrument transferring Inuit freehold title is recorded in accordance with this section the Registrar of Land Titles must cancel the certificate of title of the transferor and issue a new certificate of title to the transferee and record the certificate of title in the Register of Titles.
- (7) When an instrument creating or respecting a lesser estate or an encumbrance, a caveat or other recordable interest in respect of a lot is recorded in accordance with this section the Registrar of Land Titles must endorse a memorandum on the certificate of title.

Rectification and Revision

8.25

- (1) A recording may be rectified or revised upon application by:

- (a) the Minister in respect of a recording made under section 8.23; and
 - (b) by the owner or encumbrancer in respect of a recording made under either section 8.23 or 8.24.
- (2) Rectifications and revisions can be requested:
 - (a) if the owner changes their name;
 - (b) to correct any error; or
 - (c) to reflect any change in a recorded instrument, document or lot.
- (3) The Minister may, by regulation, prescribe the fees to be paid for applications under paragraph 8.25(1) (b).
- (4) The Registrar of Land Titles may effect a rectification if doing so would not prejudice any rights conferred for value.

Review of Registrar of Land Titles' Decisions

8.26

- (1) If the Registrar of Land Titles refuses to record an instrument or related document or to rectify or revise a recording pursuant to a request, the person who requested the recording, rectification or revision has the right to apply to a court, within 30 days, for a review of the decision of the Registrar of Land Titles
- (2) If the Registrar of Land Titles refuses to record an interest, an instrument or related document or to rectify or revise a recording pursuant to a request, the Registrar of Land Titles must notify the person who requested the recording, rectification or revision and advise them of their right under subsection (1).

DIVISION 5 INITIAL ENTRIES IN THE REGISTER OF TITLES

Required Procedures

8.27

The Registrar of Land Titles must not record a lot or a private interest in a lot until the Registrar of Land Titles has first complied with the provisions of this Division.

Parcels of Labrador Inuit Lands to be Entered in the Register of Titles

8.28

- (1) Despite any other provision of this Act, as soon as practicable after this Act comes into force, the Registrar of Land Titles must enter in the Register of Titles, as the first entries, each parcel of Labrador Inuit Lands as described, shown and designated in the Agreement.

- (2) No certificate of title is to be issued in relation to the recording of Labrador Inuit Lands under subsection (1).

Recording of Interests in Labrador Inuit Lands that exist on the Effective Date

8.29

- (1) As soon as practicable after completing the functions required under subsection 8.28(1) and despite any other provision of this Act, the Registrar of Land Titles must:
- (a) assign a lot identification number to each piece of Labrador Inuit Lands subject to a pre-existing surface interest; and
 - (b) record every document related to the pre-existing surface interest, assign each document a serial number, and make all required entries in the indexes as if the interest had been issued under section 8.22.
- (2) No fee is payable with respect to the recording of an interest under subsection 8.29(1).

DIVISION 6 VARIOUS TRANSMISSIONS, CAVEATS AND CANCELLATIONS

Transmission of title on death

8.30

- (1) When the owner of an estate for which a certificate of title has been granted dies, the lot, subject to this Act, vests in the personal representative of the deceased owner.
- (2) The personal representative before dealing with the lot shall apply in writing, executed by the personal representative or the personal representative's solicitor, to the Registrar of Titles to be recorded as owner and shall produce to and leave with the Registrar of Titles the probate of the will of the deceased owner, or letters of administration, or order of the court authorizing the personal representative to administer the estate of the deceased owner, or a certified copy of the probate, letters of administration or order, as the case may be.
- (3) For the purposes of this Act, the probate of a will or letters of administration, or other legal document purporting to be of the same nature, granted by the proper court of any province or territory of Canada or of any other jurisdiction, or an exemplification of it, is deemed sufficient if it has been resealed with the seal of the court in Newfoundland and Labrador having jurisdiction in those matters.
- (4) On the recording of the application,
- (a) the Registrar of titles shall cancel the certificate of title that is in the name of the deceased owner and grant to the executor or administrator, in the capacity as the executor or administrator, a new certificate of title, and
 - (b) the executor or administrator, as the case may be, is deemed to be the owner of the land.

- (5) The title of the executor or administrator to the land relates back and takes effect from the date of the death of the deceased owner.

Transmission of estate or interest under will or in intestacy

8.31

- (1) When an estate or interest in land for which a certificate of title has been granted is transmitted in consequence of the will or intestacy of the deceased owner,

- (a) the probate of the will of the deceased owner,
- (b) the letters of administration,
- (c) the order of the court authorizing a person to administer the estate of the deceased owner, or
- (d) a certified copy of the probate, letters of administration or order, as the case may be,

accompanied with an application in writing from the executor, administrator or other person applying to be recorded as owner in respect of the estate or interest, shall be filed with the Registrar, who shall at the time of recording make a memorandum on the certificate of title.

- (2) On the memorandum being made, the executor, or administrator, or such other person, as the case may be, is deemed to be the owner of the estate or interest in the lot.
- (3) Section 8.30(3) applies to transmissions under this section.

Tenure of person recorded in place of deceased owner

8.32

- (1) Any person recorded in place of a deceased owner shall hold the lot in respect of which the person is recorded, on the trusts and for the purposes to which it is applicable by this Act or by law and subject to any trusts and equities on which the deceased owner held it, but for the purpose of any recorded dealings with the lot, the person is deemed to be the absolute and beneficial owner of the lot notwithstanding that he or she may not qualify under part 4 of this Act to hold the title.
- (2) Any person beneficially interested in any such land may apply to a court having jurisdiction to have it taken out of the hands of the trustee having by law charge of the land and to have it transferred to some other person or persons, and the court, on reasonable cause being shown, shall name some suitable person or persons as owner of the land, and on the person or persons named accepting the ownership and giving approved security for the due fulfilment of the trusts, the court may order the Registrar to cancel the certificate of title to the trustee, and to grant a new certificate of title to the person or persons named.

- (3) Nothing in this section or in sections 8.30 or 8.31 allows or is to be construed so as to allow a trustee or receiver to grant, sell transfer or convey an estate in the lot to a person who is not eligible to hold the title.

Transfer by personal representative to himself or herself

8.33

An executor, administrator or trustee may make a valid transfer to himself or herself in the executor's, administrator's or trustee's personal capacity provided the executor, administrator or trustee is eligible to hold title to the lot.

Protection of interests of minors in recording of transfer

8.34

- (1) The President-in-Council must enact regulations to provide for the protection of minors who may have an interest in the estate of a deceased owner
- (2) The Registrar shall not record a transfer, encumbrance or other instrument executed by an executor, administrator or trustee under a will except an application for transmission or a caveat or a discharge of encumbrance, unless the regulations referred to in subsection (1) have been complied with or the transfer, mortgage or other instrument is, in the absence of such regulations, ordered by a court.

Transfer of Interest on Expropriation

8.35

- (1) If a private interest in a lot held under a certificate of title is expropriated, that interest continues despite any law or order to the contrary until a certificate of title is issued by the Registrar of Land Titles to the expropriating authority under subsection (2).
- (2) On receiving an application under subsection 8.23(1) for the recording of an expropriation, the Registrar of Land Titles must record the expropriation in the Register of Titles, cancel the certificate of title of the owner, and issue a certificate of title to the expropriating authority or enter a memorandum on the certificate of title if the requirements of paragraphs 8.23(2)(a) to 8.23(2)(f) have been met and, in addition, a true copy of the final expropriation order, certified by a court or by the expropriating authority, is submitted to the Registrar of Land Titles for recording in the Land Titles Registry.

Bankruptcies

8.36

- (1) The estate of a person in a lot held under a certificate of title who is declared to be bankrupt continues unaffected by the bankruptcy despite any law or order to the contrary until a certificate of title is issued by the Registrar of Land Titles to the trustee or receiver under subsection (2).
- (2) On receiving an application under subsection 8.23(1) for the transfer of the freehold title in the lot to the trustee or receiver of a bankrupt, the Registrar of Land Titles must record the transfer and issue a certificate of title to the trustee or receiver if the requirements of subsection 8.23(2) have been met and, in addition, a true copy of the bankruptcy order and the appointment of the trustee or receiver, certified by a court, is submitted to the Registrar of Land Titles for recording in the Land Titles Registry.
- (3) A trustee or receiver recorded in place of a bankrupt owner shall hold the lot in respect of which the person is recorded, on the trusts and for the purposes to which it is applicable by this Act or by law and subject to any trusts and equities on which the bankrupt owner held it, but for the purpose of any recorded dealings with the lot, the person is deemed to be the absolute and beneficial owner of the lot notwithstanding that he or she may not qualify under part 4 of this Act to hold the title.
- (4) Nothing in this section allows or is to be construed so as to allow a trustee or receiver to grant, sell transfer or convey an estate in the lot to a person who is not eligible to hold the title.

Tax Sales

8.37

- (1) The estate of a person in a lot held under a certificate of title that is sold in a tax sale continues despite any law or order to the contrary until a certificate of title is issued by the Registrar of Land Titles to the trustee or receiver under subsection (2).
- (2) On receiving an application under subsection 8.23(1) for the recording of a transfer of a lot that has been acquired in a tax sale by a person who is eligible to own the title, the Registrar of Land Titles must record the interest in the Register of Titles if the requirements of subsection 8.23(2) have been met and, in addition, a certificate that the private interest has been sold in a tax sale, certified by a court or by the official conducting the tax sale, is submitted to the Registrar of Land Titles for recording in the Land Titles Registry.

Judgments and Court Orders

8.38

- (1) On receiving an application under subsection 8.23(1) for the recording of a private interest in a lot that has been acquired under a judgment or a court order, the Registrar of Land Titles must record the interest in the Register of Titles if the requirements of subsection 8.23(2) have been met and, in addition, a true copy of the judgment or order, certified by a court, is submitted to the Registrar of Land Titles for recording in the Land Titles Registry.
- (2) If a judgment or court order serves to transfer the title in the lot to a person who is eligible to own the title the Registrar of Land Titles shall cancel the owner's certificate of title and issue a certificate of title in accordance with the terms of the judgment or order.

- (3) If a judgment or court order declares that a person other than the owner is entitled to the exclusive right to possess the lot or otherwise establishes a private interest in the lot without effecting a transfer of the owner's title, the person entitled to possession or the interest under the judgment or order may, on complying with the requirements of subsection 8.23(2), file a certified copy of the judgment in the Land Titles Registry and the Registrar of Land Titles shall endorse a memorandum of the judgment or order on the certificate of title.
- (4) A judgment or a court order that is recorded under subsection (3) that does not effect a transfer of title but that encumbers, or affects the rights of the titleholder in, the lot continues in effect until a certificate of discharge is recorded by the Registrar of Land Titles and every successive owner of the lot is affected with notice of the judgment or order and acquires the title subject to the judgment or order while it is in effect.
- (5) Unless otherwise specifically provided in the order or judgment, a judgment against a lot or a private interest in a lot that does not effect a transfer of a private interest in the lot continues in effect for 5 years.

Powers of Attorney

8.39

The Registrar of Land Titles may rely on an instrument that has been executed under a power if:

- (a) the instrument specifically identifies the power under which it is executed, the person on whose behalf the power is exercised and the person exercising the power;
- (b) the original or a certified true copy of the power is attached to the instrument;
- (c) the power was in effect at the time of the execution of the instrument;
- (d) the power specifically identifies the lot and the private interest in relation to which the power may be exercised; and
- (e) the instrument has been executed in accordance with the power.

Trusts

8.40

The Registrar of Land Titles shall treat any instrument containing a notice of trust with respect to a private interest, whether expressed, implied or constructive, as if there were no trust, and the trustee or trustees named in the instrument are deemed to be the absolute and beneficial owners of the private interest for the purposes of this Act.

Restrictive Covenants

8.41

- (1) A person may record in relation to a lot, for the benefit of any other land that is being or has been recorded, a condition or covenant that the lot, or any specified portion of the lot:
 - (a) is not to be built on,
 - (b) is to be used in a particular manner,
 - (c) is not to be used in a particular manner, or
 - (d) any other condition or covenant running with or capable of being legally annexed to land.
- (2) When any such condition or covenant is presented for recording, the Registrar of Land Titles shall enter it on the proper certificate or certificates of title.
- (3) Notwithstanding subsection (2), before a memorandum of a condition or covenant may be entered on a certificate of title under subsection (2), certificates of title must exist for all the lots affected by the condition or covenant, including the lot that comprises the servient tenement and the lot that comprises the dominant tenement.
- (4) The first owner, and every transferee and other person deriving a private interest from or through the first owner is deemed to be affected with notice of the condition or covenant, and to be bound by it if it is of such nature as to run with the land.
- (5) The entry on the Register of Titles of a condition or covenant as running with or annexed to land does not make it run with the land, if the covenant or condition on account of its nature, or of the manner in which it is expressed, would not otherwise be annexed to or run with the land.
- (6) No condition or covenant recorded under this section is an encumbrance within the meaning of this Act.

Joint Tenancies

8.42

The Registrar of Land Titles shall not record a transfer that has the effect of severing a joint tenancy unless

- (a) the transfer is executed by all the joint tenants,
- (b) all the joint tenants who do not execute the transfer have give their written consent to the transfer, or
- (c) the Registrar of Land Titles is provided with a certified copy of a court order that dispenses with the requirement to obtain the consent of the joint tenants who do not execute the transfer.

Easements

8.43

- (1) When an easement is created in or over a lot for which a certificate of title has been granted for the purpose of being annexed to or used and enjoyed together with another lot for which a certificate of title has also been granted, the Registrar of Land Titles shall endorse a memorandum of the instrument creating the easement on the certificates of title of the dominant and servient tenements.
- (2) When the dominant and servient tenements are recorded in the name of the same person, an easement under subsection (1) is not merged by reason of the common ownership.

Utility right of way

8.44

- (1) If the owner of a lot grants a right on, over or under the lot for
 - (a) carrying, laying, constructing, maintaining or using conduits, cables, wires, poles, towers or transmission lines,
 - (b) laying, constructing, maintaining and operating pipelines for the transmission, transportation or conduct of any substance,
 - (c) conveying water,
 - (d) drainage, irrigation, flooding or erosion,
 - (e) disposing of sewage,
 - (f) constructing or maintaining a public work, or
 - (g) constructing, maintaining and operating a path, trail, roadway, railway or other transportation route,

the instrument granting the right may be recorded under this Act.

- (2) On recording an easement under subsection (1), the Registrar of Land Titles shall endorse a memorandum of the easement on the certificates of title of the servient tenement, and the grantee has the right to use the lot in accordance with the terms of the grant and that right runs with the lot notwithstanding that the benefit of the right is not appurtenant or annexed to any lot or other land of the grantee.
- (3) An instrument purporting to transfer or encumber any right granted by an instrument recorded under subsection (1) and executed by or on behalf of the grantee may be recorded under this Act.
- (4) The holder of a utility right of way under this section may at any time, by an instrument to that effect recorded under this Act, surrender the right granted by an instrument recorded under subsection (1).
- (5) Despite subsection (4), a right that is subject to an encumbrance shall not be surrendered unless the surrender is consented to by the encumbrancee.

Filing of caveat

8.45 A person claiming to be interested in a lot for which a certificate of title has been issued or in an encumbrance relating to that lot

- (a) pursuant to
 - (i) a will, settlement or trust deed,
 - (ii) an instrument of transfer or transmission, or
 - (iii) an unrecorded instrument,
- (b) by virtue of the provisions of any legislation under which that person acquired any right with respect to that lot or encumbrance, or
- (c) by virtue of
 - (i) having acquired through the owner or any prior owner of that lot or encumbrance, otherwise than under clause (a) or (b), an interest in that lot or encumbrance after the first certificate of title was issued for that lot,
 - (ii) being the owner or previous owner of an interest in that lot, otherwise than under clause (a) or (b), when that interest arose after the first certificate of title was issued for that land, or
 - (iii) being the owner or a previous owner of the encumbrance, otherwise than under clause (a) or (b),

may cause to be filed with the Registrar of Land Titles a caveat against the recording of any person as transferee or owner of, or any instrument affecting, the estate or interest, unless the certificate of title is expressed to be subject to the claim of the caveator.

Requirements of caveat

8.46

- (1) Every caveat filed with the Registrar of Land Titles must state the name and address of the person by whom or on whose behalf it is filed and, except in the case of a caveat filed by the Registrar as provided, must be signed by the caveator or the caveator's agent and shall state some address or place at which notices and proceedings relating to the caveat or the subject-matter of the caveat may be served and the nature of the interest claimed and the grounds on which the claim is founded.
- (2) Every caveat, except in the case of a caveat filed by the Registrar of Land Titles as provided, must be supported by an affidavit

- (a) that in the belief of the deponent the person by whom or on whose behalf the caveat is filed has a good and valid claim in respect of the lot or encumbrance intended to be affected by it, and
- (b) that the caveat is not filed for the purpose of delaying or embarrassing the owner, or any person claiming through the owner.

Address for service

8.47

- (1) A caveator while the caveator's caveat remains in force may file with the Registrar of Land Titles a notice of the change of address for service stated in the caveat, or in any previous notice of change of address for service.
- (2) On receipt of a notice of change of address for service the Registrar of Land Titles shall enter the notice in the record and shall make a memorandum of it on the certificate of title affected by the caveat.

Duties of Registrar on receipt of caveat

8.48

- (1) When the Registrar of Land Titles accepts a caveat for recording, the Registrar shall:
 - (a) make a memorandum of it on the certificate of title for the lot to which it relates, and
 - (b) forthwith send notice of the caveat and of the interest claimed under it by mail addressed to the person against whose title the caveat is recorded.
- (2) No caveat may be recorded that affects land for which no certificate of title has been issued.
- (3) No caveat may be recorded that claims an interest in a lot under or by virtue of Inuit custom and tradition.

Effect of caveat

8.49

So long as a caveat remains in force, an instrument recorded subsequent to the caveat and purporting to affect the lot or encumbrance in respect of which the caveat is lodged is subject to the claim of the caveator.

Transfer of caveat

8.50

- (1) A caveat may be transferred by a caveator, or by the caveator's agent where the caveat is signed by the agent, and on recording of a transfer of the caveat, the transferee has the same priority as if the transferee were the original caveator.
- (2) On recording of a transfer of caveat, the transferee becomes entitled to all rights granted by this Act to the caveator and subject to all liabilities imposed by this Act on the caveator.
- (3) A transfer of caveat shall specify an address at which notices and proceedings relating to the caveat or the subject-matter of the caveat may be served.

Withdrawal of caveat

8.51

- (1) Subject to subsection (2), a caveat may be withdrawn by the caveator or by the agent for the caveator who signed the caveat.

- (2) In the case of a caveat in which

- (a) the nature of the interest claimed is

- (i) an easement,
- (ii) an encroachment agreement, or
- (iii) a restrictive covenant running with or capable of being annexed to land,

and

- (b) the dominant tenement is identified,

the caveat may be withdrawn only by the recorded owner of the dominant tenement or, if the recorded owner of the dominant tenement is the caveator and the caveat was signed by an agent, by the recorded owner or the agent.

Lapse of caveat

8.52

- (1) Except as otherwise provided in this section and except in the case of a caveat recorded by the Registrar of Land Titles, every caveat recorded against any lot or encumbrance shall be lapsed by the Registrar on application made after the expiration of 60 days after notice to take proceedings in court on the caveator's caveat has been either
 - (a) served as process is usually served under laws of the Province, or
 - (b) sent by recorded mail to the caveator at or to the address stated in the caveat or, if a notice of change of address for service has been filed with the Registrar, then at or to the

address stated in the last notice of change of address for service filed in the Land Titles Registry,

unless the caveator takes proceedings in court to substantiate the title, estate, interest or encumbrance claimed by the caveator's caveat and a certificate of lis pendens has been filed with the Registrar of Land Titles.

- (2) Despite subsection (1), the court may on an ex parte application shorten the period of 60 days to a period it specifies in the order, and a copy of the order shall be served or mailed with the notice.
- (3) In the case of a caveat recorded to protect an easement or a restrictive covenant running with or capable of being annexed to land that identifies the dominant tenement, instead of the notice's being served on or sent to the caveator under subsection (1), the notice may be served in accordance with subsection (1) on the recorded owner of the dominant tenement.
- (4) The service or sending of the notice shall be proved to the satisfaction of the Registrar of Land Titles.
- (5) No caveat is deemed to have lapsed pursuant to subsection (1) unless the person who caused the notice to be served or sent proves to the satisfaction of the Registrar of Land Titles that the person has an interest in the lot or encumbrance against which the caveat was lodged.

Extension of time for proceeding on caveat

8.53

On application to a court of competent jurisdiction in accordance with the rules of the court at any time before the expiration of the time limited for proceeding on a caveat, the court, for sufficient cause shown and subject to any conditions that seem proper, may extend the time for proceeding on the caveat for a further period to be specified in the order.

Application to discharge caveat

8.54

- (1) In the case of a caveat filed, except a caveat filed by the Registrar of Land Titles as hereinafter provided, the applicant or owner may at any time apply to a court of competent jurisdiction, in accordance with the rules of the court, calling on the caveator to show cause why the caveat should not be discharged, and on the hearing of the application the court may make any order that the court considers just.

Compensation in case of caveat filed wrongfully

8.55

Any person, other than the Registrar of Land Titles, filing or continuing a caveat without reasonable cause is liable to make compensation to any person who may have sustained damage by that filing or continuation, and the compensation may be recovered by action if the caveator has withdrawn the caveat and no proceedings have been taken by the caveator or caveatee as provided in this Act, but if the

proceedings have been taken then the compensation is to be decided by the court in the proceedings whether the caveat has been withdrawn or not.

Order re caveat

8.56

- (1) In the case of a caveat filed by the Registrar of Land Titles as hereinafter provided, the applicant or owner may apply to a court of competent jurisdiction in accordance with the rules of the court for an order that the caveat be withdrawn or discharged.
- (2) If the person on whose behalf the caveat has been filed is a minor without a guardian or a dependent adult without a trustee, the court may by an ex parte order direct that the notice be served on the public trustee, or some other person to be named in the notice, and may impose on the applicant any terms as to the costs of the guardian or other person appointed by the order that seem just.
- (3) On the application, the court may make any order in the premises, dismissing the application, discharging or withdrawing the caveat, or directing any of the parties to commence proceedings by action or otherwise that to the court seems just and proper.

Priority of caveat

8.57 Recording by way of caveat, whether by the Registrar of Land Titles or by any caveator, has the same effect as to priority as the recording of any instrument under this Act, and the Registrar may in the Registrar's discretion allow the withdrawal of a caveat at any time and the recording in its place of the instrument under which the person on whose behalf the caveat was lodged claims the person's title or interest, if the instrument is an instrument that may be recorded under this Act, and, if the withdrawal of the caveat and the recording of the instrument is simultaneous, the same priority is preserved to all rights under the instrument as was provided in respect of those rights under the caveat.

Recording of certificate of lis pendens

8.58

- (1) A person claiming an interest in any lot or encumbrance may, instead of filing a caveat or after filing a caveat, proceed by way of action to enforce the person's claim and record a certificate of lis pendens.
- (2) A person who has proceeded by way of action to call into question some title or interest in any lot may record a certificate of lis pendens.

Compensation re certificate of lis pendens

8.59

A person filing or continuing a certificate of lis pendens without reasonable cause is liable to make compensation to any person who may have sustained damage by that filing or continuation.

Cancellation of certificate of lis pendens

8.60

The Registrar of Land Titles shall cancel the recording of a certificate of lis pendens on receiving

- (a) a certificate under seal of the clerk of the court stating that the proceedings for which the certificate of lis pendens was granted are
 - (i) discontinued, or
 - (ii) dismissed and the time for commencing an appeal has expired and no appeal has been commenced, or if commenced, has been finally disposed of or discontinued,
- (b) a withdrawal of the certificate of lis pendens signed by the person on whose behalf the certificate was recorded, or
- (c) where a certificate of lis pendens relates to a caveat that was signed by an attorney or an agent, a withdrawal of the certificate of lis pendens signed by
 - (i) the attorney or the agent, as the case may be, or
 - (ii) the person on whose behalf the certificate was recorded.

Caveat for Nunatsiavut Government or person under disability

8.61

The Registrar of Land Titles may file a caveat on behalf of the Nunatsiavut Government, or on behalf of any person who may be under any disability, to prohibit the transfer or dealing with any land belonging or supposed to belong to the Nunatsiavut Government or to that person, and also to prohibit the dealing with any land in any case in which it appears to the Registrar of Land Titles that an error has been made in any certificate of title or other instrument, or for the prevention of any fraud or improper dealing.

Memorandum on withdrawal of caveat

8.62

On the withdrawal, lapse or removal of a caveat, or on the making of any order by the court in connection with it, a memorandum of the withdrawal, lapse, removal or order, as the case may be, shall be made by the Registrar of Land Titles on the certificate of title.

Cancellation of Certain Interests

8.63

- (1) The Registrar of Land Titles shall cancel the recording of any life estate, lease or caveat or any other interest issued by the Minister if the Registrar of Land Titles is satisfied that the interest has expired through the passage of time in accordance with an express provision in the instrument.
- (2) The Registrar of Land Titles shall cancel the recording, in whole or in part, of a life estate, a lease an encumbrance, an easement, a restrictive covenant, a caveat or a utility right of way on production of a release or discharge in the prescribed form signed by the person entitled to the interest being released or discharged.
- (2) The Registrar of Land Titles may, on application by an owner of a freehold title in a lot that is affected by an instrument referred to in subsection (1), cancel the recording of that instrument in whole or in part if the Registrar of Land Titles is satisfied that the interest has expired through the passage of time in accordance with an express provision in the instrument.

DIVISION 7 SURVEYS, PLANS OF SURVEY AND DESCRIPTIVE PLANS

Illustration of plan of survey

8.64

- (1) A plan of survey shall not be recorded unless the plan of survey
 - (a) illustrates and represents the survey as made on the ground by a land surveyor authorized to practice in the Province;
 - (b) contains the information and details that the Registrar of Land Titles considers necessary and appropriate,
 - (c) is on a medium or material or in a digital format approved by the Registrar of Land Titles,
 - (d) states the purpose of the survey, and
 - (e) is certified by the land surveyor.
- (2) The illustration of a survey made under subsection (1) must include:
 - (a) the position and nature of all survey monuments found and placed in the course of the survey,
 - (b) the position and nature of all natural boundaries used for purposes of the survey,
 - (c) the original boundary lines of any parcel of land affected by the survey and any boundary line established by the survey, and
 - (d) a sufficient number of measurements, as is necessary to enable the position of the parcels established by the survey to be located on the ground

- (e) information respecting the location of the survey in relation to the parcel of Labrador Inuit Lands to which the survey relates.

Endorsements on Plan of Survey

8.65

Despite anything else in this or Act or any other law, any signature, consent, certificate or endorsement related to a plan of survey may be executed or otherwise placed, in a manner acceptable to the Registrar of Land Titles, on an attachment that references the plan.

Requirements for recording of Plans of Survey

8.66

- (1) Before a plan or an amended, altered or corrected plan is recorded, the Registrar of Land Titles may:
 - (a) require a written explanation of any apparent discrepancy between the plan and the description of the land in the Register of Titles or any former plan, or any other matter shown on or affecting the plan, that in the Registrar of Land Titles' opinion requires an explanation; and
 - (b) require the plan of survey to be submitted to the appropriate authority or an independent land surveyor for confirmation that the survey as represented by the plan complies with the requirements of law.
- (2) The recording of a plan under this Act does not relieve the land surveyor who conducted the survey and prepared the plan from any liability for damages suffered by any person as a consequence of the survey or the recording of the plan.

Survey re transfer

8.67

- (1) Where the owner of a private interest in a lot wishes to transfer or otherwise deal with the land or private interest, the Registrar of Land Titles may, before recording any instrument transfer or deal with the lot, require the owner or other person to have the land surveyed by a qualified land surveyor, and to submit for recording a plan of survey signed by the owner or the other person.
- (2) No instrument shall be recorded with respect to the lot referred to in subsection (1) until the owner or other person has complied with the Registrar of Land Titles' requirements under subsection (1).

Plan of Survey for Expropriation or Right of Way and Effect

8.68

- (1) A plan of survey of land may be recorded where the land is required for an expropriation, an easement or a right of way;
- (2) A plan referred to in subsection (1) shall be signed by the person who requested the plan of survey to be made.
- (3) The recording of a plan under this section does not
 - (a) effect an expropriation;
 - (b) affect the title to the land shown on the plan, or
 - (c) convey any private interest or right to any person.
- (4) When a plan is recorded under this section for purposes of an expropriation, the Registrar of Land Titles must not thereafter issue a certificate of title under section 8.22 with respect to a private interest in that area.
- (5) When a plan is recorded under this section for purposes of a public utility right of way or a public highway, road, street or lane in land that is not subject to a private interest, the Registrar of Land Titles must not thereafter issue a certificate of title under section 8.22 with respect to a private interest in that land unless the instrument issued by the Minister for the purpose of creating the private interest expressly states that the interest is subject to the public utility right of way or a public highway, road, street or lane.

Plan of survey re subdivision

8.69

- (1) A plan of survey subdividing land may be recorded.
- (2) A plan of subdivision that is submitted for recording shall
 - (a) be signed or consented to in writing by the recorded owner of the lot,
 - (b) show the numbers or letters of the lots illustrated on the plan, and
 - (c) show all rights of way, easements, public roadways and other areas dedicated or set apart for public purposes and indicate the courses and width of each of them.
- (3) The recording of a plan of subdivision does not affect the title to any land affected by the plan.

Recording of descriptive plans

8.70

- (1) The Registrar of Land Titles may:

- (a) cause a plan that illustrates boundaries to be prepared and recorded in respect of a lot described in a certificate of title: or
 - (b) before recording any instrument of transfer or other instrument respecting a lot, require the owner or other person to prepare and record a plan that illustrates the boundaries of the lot; and
 - (c) permit a plan that is not a plan of survey to be recorded if the Registrar of Land Titles:
 - (i) is satisfied that the circumstances do not justify the preparation of a plan of survey, and
 - (ii) has given the Registrar of Land Titles' prior approval to the preparation of a descriptive plan.
- (2) No instrument shall be recorded with respect to a lot referred to in paragraph 8.50 (1) (b) until the owner or other person has complied with the Registrar of Land Titles' requirements.
- (3) If a plan referred to in subsection (1) is in relation to a subdivision or consolidation of land it shall not include more than 2 lots of land.
- (4) A plan prepared under subsection (1) shall
- (a) be known as a "descriptive plan",
 - (b) be prepared in a manner and on a medium or material that is satisfactory to the Registrar of Land Titles,
 - (c) contain sufficient detail so that, in the opinion of the Registrar of Land Titles, the parcel boundaries can be ascertained from the plan, and
 - (d) be signed by all parties who may be interested in or affected by the plan.
- (5) When a descriptive plan is recorded under subsection (1), the Registrar of Land Titles shall deal with the plan as if it were a plan of survey.

Actual area of land

8.71

Every lot described in a certificate of title consists only of the actual area within its boundaries and no more or less, notwithstanding that a certificate of title or other instrument that describes the lot expresses an area that is more or less than the actual area.

DIVISION 8 ENCUMBRANCES AND POSTPONEMENTS

Priority of Encumbrance

8.72

- (1) On recording of an encumbrance to secure a specific principal sum, the encumbrance obtains priority in accordance with subsection 8.18(5) for all advances and obligations secured pursuant to the terms of the encumbrance even though they are made or incurred subsequent to the recording of some other instrument.
- (2) On recording of an encumbrance that provides for a revolving line of credit up to a specific principal sum, the encumbrance obtains priority in accordance with subsection 8.18(5) for all advances and obligations secured pursuant to the terms of the encumbrance even though
 - (a) the advances and obligations are made or incurred subsequent to the recording of some other instrument, and
 - (b) at any time during the term of the encumbrance there may not be any outstanding advances to be secured.

Registered encumbrances continue until discharged

8.73

- (1) An encumbrance that is recorded under section 23 continues in effect until a certificate of discharge is recorded by the Registrar of Land Titles, and every successive owner of a private interest in the lot is affected with notice of the security interest and acquires his or her private interest in the lot subject to the security interest while it remains in effect.

Encumbrance to be in Prescribed or Similar Form

8.74

- (1) When a lot or a private interest in a lot for which a certificate of title has been granted is intended to be charged with an encumbrance or made security for the payment of money in favour of an encumbrancee, the encumbrancer must execute an encumbrance either in the form prescribed by regulations under this Act, or in an instrument that has the same effect.
- (2) An encumbrance must:
 - (a) contain an accurate statement of the estate or private interest intended to be encumbered,
 - (b) give a description of the lot intended to be dealt with that is sufficient to identify the lot, and
 - (c) set out the nature of the encumbrance and its terms and conditions.
- (3) An application must be made to the Registrar of Land Titles for recording of the encumbrance in accordance with section 8.23.
- (4) When the Registrar of Land Titles accepts an application for the recording of an encumbrance the Registrar of Land Titles must make a memorandum of the mortgage or encumbrance on the certificate of title.

Encumbrances under personal property security

8.75

An encumbrance on a lot or on any estate or private interest in a lot contained in, endorsed on or annexed to a written order, contract, agreement or other instrument for the purchase or delivery of any chattel or chattels, is not recordable under this Act and is of no force or effect as an encumbrance on the lot or on any estate or interest in the lot.

Discharge of encumbrance

8.76

- (1) The Registrar of Land Titles shall discharge an encumbrance wholly or in part, or the lot comprised in it wholly or in part, according to the terms of the discharge, and shall make an entry of the discharge on the certificate of title affected by the discharge, in any of the following cases:
 - (a) on the production to the Registrar of Land Titles of a discharge in the prescribed form signed by the encumbrancee and accompanied with the proper affidavit of execution, but
 - (i) when it is expressly stated in an encumbrance to 2 or more encumbrancees that the money has been advanced on a joint account, it is sufficient if the discharge of the encumbrance is signed by any one of the encumbrancees, or
 - (ii) when it is expressly stated in an encumbrance that the encumbrance is held in joint tenancy by 2 or more encumbrancees, it is sufficient, on the death of a joint tenant, if the discharge of the encumbrance is signed by the surviving encumbrancees;
 - (b) on the production of a certificate signed by a judge certifying that the judge is satisfied of the payment of all or part of the money secured by the encumbrance, and that the encumbrancee is living, or if dead, that no duty or tax is payable with respect to the encumbrance;
 - (c) on the production of a certificate signed by a judge certifying that the right of any person to recover any money secured by the encumbrance has been extinguished by reason of the operation of the Provincial *Limitation of Actions Act*.
- (2) On the entry being made on the certificate of title, the lot or the estate in the lot, or the portion of the lot referred to in the memorandum, ceases to be subject to or liable for the principal sum or annuity, or, as the case may be, for the part of it mentioned in the entry as having been discharged.

Postponements

8.77

- (1) A person entitled to the benefit of an encumbrance, lease or other instrument recorded against a lot or for which a certificate of title has been issued may postpone his or her rights under the instrument by filing a postponement in the prescribed form.
- (2) The recording of a postponement has the effect of postponing the rights under the postponed instrument to the rights under the instrument to which it is postponed in the same way and to the same extent as if the postponed instrument had been recorded after the instrument to which it is to be postponed.

DIVISION 9 PROTECTION OF BONA FIDE PURCHASERS, PROTECTION AGAINST EJECTMENT AND LIABILITY OF NUNATSIAVUT GOVERNMENT

Bona fide purchasers

8.78

A bona fide purchaser for valuable consideration of a lot under this Act is not liable in an action for recovery of damages, or to an action of ejectment, or to deprivation of land in respect of which the purchaser or mortgagee is recorded as owner on the grounds that the purchaser's transferor or the mortgagee's mortgagor has been recorded as owner through fraud or error, or has derived title from or through a person recorded as owner through fraud or error.

Protection against ejectment

8.79

- (1) No action of ejectment or other action for the recovery of any lot for which a certificate of title has been granted lies or shall be sustained against the owner under this Act in respect of it, except in any of the following cases:
 - (a) the case of an encumbrancee as against an encumbrancer in default;
 - (b) the case of a lessor as against a lessee in default;
 - (c) the case of a person deprived of land by fraud as against the owner of the land through fraud, or as against a person deriving title otherwise than as a transferee bona fide for value, from or through the owner through fraud;
 - (d) the case of a person deprived of or claiming any land included in a grant or certificate of title to other land by misdescription of the other land or of its boundaries, as against the owner of the other land; and
 - (f) the case of an owner claiming under an instrument of title prior in date of recording under this Act.
- (2) In any case, other than one mentioned in subsection (1), the production of the certificate of title or a certified copy of it is an absolute bar and estoppel to any such action against the person named in the certificate of title as owner or lessee of the land described in it.

No Liability

8.80

The Nunatsiavut Government, the Minister, the Registrar of Land Titles and the members of the Nunatsiavut Civil Service employed in the Registry of Titles are not liable to a civil action, in damages or otherwise, and no action for damages shall be brought against the Nunatsiavut Government, the Minister, the Registrar of Land Titles and the members of the Nunatsiavut Civil Service employed in the Registry of Titles:

- (a) by reason of the deprivation of land, deprivation of an encumbrance or deprivation of an estate or interest in any land or encumbrance
 - (i) through the bringing of it under this Act,
 - (ii) by the recording of another person as owner of the land or encumbrance, or
 - (iii) by an error, omission or misdescription in a certificate of title,
- (b) with respect to any error, omission or misdescription in a certificate of title or memorandum,
- (c) by reason of any error or omission in the Registry of Land Titles or in any of the indexes, data bases, files or records maintained in or in connection with the Registry of Land Titles;
- (d) with respect to the processing or the determination of an application for the recording of an instrument in the Registry of Land Titles;
- (e) with respect to the operation and maintenance of the Registry of Land Titles;
- (f) with respect to the security, accuracy or reliability of the Register of Land Titles and the indexes and data bases maintained by or in the Land Titles Registry; or
- (g) for any other act that is, in good faith, done or omitted to be done in the exercise or supposed exercise of a power given under this Act or an order or regulation made under this Act.

PART 9 ABANDONED INTERESTS IN LABRADOR INUIT LANDS

Abandoned Interest

- 9.1 A private interest in a lot for which a certificate of title has been issued shall be considered to have been abandoned if:
- (a) the lot has been unused and unoccupied by the original title holder or by a person lawfully claiming under the original title holder for at least 10 years; or

- (b) the title holder records a notice of abandonment with the Minister and the Registrar of Titles.

Reversion to Nunatsiavut Government

9.2

- (1) If the Minister considers that a private interest in a lot for which a certificate of title has been issued has been abandoned the Minister may issue a written notice that:
 - (a) all persons who have or claim a private interest in the lot must, by written claim, show cause why the lands should not be vested in the Nunatsiavut Government;
 - (b) any claim must be filed with the minister no less than 90 days from the date of first publication of the notice; and
 - (c) if no claim is filed or if the claims filed are not substantiated the Executive Council may declare that the title to the lot is vested in the Inuit under the administration and management of the Nunatsiavut Government free and clear of any private interest.
- (2) A notice under subsection (1) must
 - (a) identify the lot;
 - (b) describe the certificate of title issued by the Nunatsiavut Government and the most current certificate of title;
 - (c) give the name of the last known owner of the lot; and
 - (d) be published not less than 3 times at intervals of not less than 8 days in a newspaper having general circulation in Labrador within the 90 day period fixed for filing claims.

Procedure for Claims

9.3

- (1) A person who claims a private interest in a lot that is the subject of proceedings under this Part must file the claim with the minister and must pay a deposit to the minister in an amount prescribed by regulation which shall be returned if the claim is sustained; but if the claim is rejected the minister may retain the sum for the Nunatsiavut Government.
- (2) Within 30 days of receiving a claim under subsection (1) the minister must
 - (a) make a determination that the claim is valid or that the private interest in respect of which the claim is made has not been abandoned; or
 - (b) make a determination that the claim is not valid or that the private interest in respect of which the claim is made has been abandoned.

- (3) If the Minister makes a determination under paragraph 2(a) the Minister must discontinue the proceedings to have the lot vested in the Inuit under the administration and management of the Nunatsiavut Government free and clear of any private interest and must publish a notice to that effect.
- (4) If the Minister makes a determination under paragraph 2(b) the Minister must, upon 30 days notice to the claimant, refer the claim to a commissioner appointed by the President under the Nunatsiavut Seal with the consent of the Executive Council who shall inquire into the claim and make a final determination as to the validity of the claim or whether the private interest in respect of which the claim is made has been abandoned.

Order vesting land

9.4

- (1) If no claim is filed within the 90 day time limit or if a claim referred to a commissioner is rejected, the Executive Council may, by order, declare that the title to the lot is vested in the Inuit under the administration and management of the Nunatsiavut Government free and clear of any private interest.
- (2) An order under subsection (1) must contain all particulars necessary to identify the lot and the private interest affected and must be recorded in the Applications Registry and in the Registry of Titles.
- (3) Upon the recording of an order the lot shall be considered to be vested in the Inuit under the administration and management of the Nunatsiavut Government as if the lands had never been granted, leased or licensed by the Nunatsiavut Government.
- (4) An order recorded in the Registry of Titles under subsection (2) or a certified copy of it shall be accepted as proof of the matters mentioned in it.

Deposits and Costs

9.5

- (1) A deposit must be returned to the claimant if the claim is determined to be valid but if the claim is rejected the minister may retain the deposit.
- (2) No costs for or against the Nunatsiavut Government shall be allowed or awarded in an inquiry under subsection 7.4 (4).

Entry onto Lot

9.6

A person who makes a claim to a lot under this Part must permit a person appointed by the Minister for the purpose and the commissioner appointed under subsection 7.4(4) to enter onto the lot for the purpose of inspecting it.

PART 10 MINERAL EXPLORATION AND DEVELOPMENT

No Mineral Exploration without Permission

10.1

No person may

- (a) enter or use Labrador Inuit Lands or carry out any activity in Labrador Inuit Lands for purposes of exploring for minerals or quarrying, or
- (b) carry out mineral exploration or quarrying in Labrador Inuit Lands

without the written authorization of the Minister or a permit issued by the Minister unless the exploration or quarrying, as the case may be, is permitted under section 4.11.5 of the Agreement.

Transitional

10.2

The Minister may, with the consent of the Executive Council, issue a written authorization under section 4.11.8 of the Agreement on such terms as the Executive Council may consider necessary or desirable.

Negotiation of Exploration and Quarrying Standards

10.3

- (1) The Minister is responsible for the negotiation of the Exploration and quarrying standards required under section 4.11.6 of the Agreement and may, in the Minister's discretion, extend the period for the negotiations.
- (2) The Minister may, with the written consent of the Executive Council, submit any matter in dispute during the negotiations referred to in subsection (1) to arbitration by the Dispute Resolution Board under section 4.11.9 of the Agreement.
- (3) The Minister is responsible for the participation of the Nunatsiavut Government in any arbitration under section 4.11.19 of the Agreement.

Approval of Work Plans for Exploration and Quarrying

10.4

The Minister is responsible for all matters and decisions pertaining to work plans in relation to exploration or quarrying in Labrador Inuit Lands including, without limitation, the approval of work plans in accordance with part 4.11 of the Agreement and the monitoring and enforcement of approved work plans.

Issuance of Permits and Leases for Exploration and Quarrying

10.5

- (1) The Minister must not issue a permit or lease under Part 4 of this Act for a purpose referred to in section 10.1 unless the Minister has approved a work plan in relation to the activities that will be carried out in the land.
- (2) The Minister must, in determining whether or not to issue a permit or lease under Part 4 of this Act for a purpose referred to in section 10.1 or in establishing the terms and conditions applicable to any permit or lease that the Minister may issue for a purpose referred to in section 10.1, consider each of the matters set out in sections 4.11.20 and 4.11.27 of the Agreement.

Fees and Charges Applicable to Exploration and Quarrying in Labrador Inuit Lands

10.6

The Executive Council must, by Order in Council, as soon as practicable and in accordance with section 4.11.11 of the Agreement, establish a schedule of charges, fees and rentals for access to or rental of Labrador Inuit Lands for purposes of exploration and quarrying.

Requirements for Development of Subsurface Resources

10.7

- (1) No subsurface resource may be worked, produced, mined or developed in Labrador Inuit Lands except in accordance with a lease of the lands issued by the Minister with the approval of the Executive Council.
- (2) No lease may be issued or approved under subsection (1) unless:
 - (a) an impacts and benefits agreement in respect of the development has been approved or waived by the Assembly; and
 - (b) the environmental impacts of the development have been assessed and deemed acceptable pursuant to Inuit Law or, in the absence of such law, by the Minister. (IL 2008-03) (IL 2011-07)

PART 11 MONITORING, ENFORCEMENT AND PENALTIES

Appointment of Enforcement Officers

11.1

The President-in-Council may appoint or designate employees or officers of the Nunatsiavut Government within the Department as enforcement officers to enforce this Act.

Duties of enforcement officers

11.2

An enforcement officer must monitor the implementation of this Act and has a duty to enforce this Act, regulations enacted under this Act and Inuit Laws applicable to Labrador Inuit Lands in accordance with their terms and the powers granted to enforcement officers under this Act and the *Offences Act*.

Monitoring Compliance

11.3 It is a condition of every Instrument creating a private interest in Labrador Inuit Lands or granting a privilege, permission or licence under this Act, whether stipulated in the Instrument or not, that an enforcement officer may enter onto the lot of land and Parcel of Labrador Inuit Lands to which the Instrument applies for the purpose of determining whether the terms of the Instrument, the provisions of this Act and regulations under this Act are being complied with. (IL 2019-01)

Power of Entry

11.4

An enforcement officer who has reasonable grounds to believe that the owner, occupant or person in possession of a lot is in breach of a law or a regulation applicable to the lot may enter the lot without a warrant in order to investigate the breach but may not enter any structure for purposes of investigating a breach of a law or a regulation without a warrant.

Stop Order

11.5

- (1) An enforcement officer who has reasonable grounds to believe:
 - (a) that a person has entered Labrador Inuit Lands or has put a structure on Labrador Inuit Lands without being entitled to do so under Inuit custom and tradition or this Act, or
 - (b) that a person is making a use of Labrador Inuit Lands or carrying out an activity in Labrador Inuit Lands that is not allowed under Inuit custom and tradition or that is not authorized or permitted by this Act, an Instrument issued under this Act, or the land use plan or that is otherwise contrary to law, (IL 2019-01)

may order that person to stop the entry, remove the structure or stop the use or activity and to restore the lands to their original condition.

Form, Service and Effect of Order

11.6

- (1) An order made under section 11.5

- (a) shall be signed by the enforcement officer and shall be served on the person to whom it is addressed either personally or by certified mail or, where the person engaged in the entry, use or activity is not known, by posting the order on the lands in questions;
 - (b) shall require the person to whom it is addressed to restore the lands to their original condition within 60 days after service of the notice; and
 - (c) require any person who erected or occupies or uses a structure on the land to remove it within 60 days after service of the notice.
- (2) An order referred to in subsection (1) may be served on the person to whom it is addressed by delivering it to the person or by leaving it at the person's last or most usual place of residence with a person present there at the time.
 - (3) Where the identity of the person to whom an order referred to in subsection (1) is directed is not known or the person cannot be found, the enforcement officer may post the order on the land or on any structure on the land and may publish it in a newspaper having general circulation in Labrador.
 - (4) A person upon whom an order under subsection (1) has been served who fails to obey the order is guilty of an offence and may be liable on conviction to a penalty for each day that the land is not restored to its original condition or the structure remains on the land.
 - (5) Where an order referred to in subsection (1) has been served or posted or published and the land has not been restored or a structure has not been removed from the land within 60 days of the service or posting or publishing, the minister or a person acting under the authority of the Minister may restore the land or remove the structure from the land or demolish it.
 - (6) Where land has been restored or where a structure is removed or demolished under subsection (5), the costs and expenses of restoring the land or of the removal or demolition may be recovered from the person responsible by the Minister as a debt due the Nunatsiavut Government.
 - (7) The Minister may, upon written application by a person on whom an order has been served or a person who claims to be the owner of a structure referred to in the order, extend the period for compliance with this section to a period not to exceed 6 months.
 - (8) An application under subsection (7) must be made before the expiry of the time period provided in this section.

Appeal

11.7

- (1) A person who feels aggrieved by an order made under section 11.5 may, within 14 days of the service or posting of the order and upon due notice to the Minister, appeal to a court of competent jurisdiction and the court may make whatever order with respect to the matter that appears just.
- (2) Where an appeal has been commenced under subsection (1), no action may be taken under subsection 11.6(5) until the appeal has been heard or otherwise disposed of.

(3) Despite subsection (2), a stop order remains in effect.

Offences

11.8

A person who,

- (a) except in accordance with this Act or another law permitting access to Labrador Inuit Lands, enters, encloses, uses or takes possession of Labrador Inuit Lands or
- (b) refuses to permit the entry of an enforcement officer onto lands for the purpose of determining whether the terms of an instrument granting a private interest in the lands are being complied with

is guilty of an offence and is liable on summary conviction to a fine of not less than \$2,000.00 or to a term of imprisonment not exceeding 6 months or to both the fine and imprisonment.

Additional Penalty

11.9

In addition to the Penalties under section 11.8, a judge may order that a person guilty of an offence:

- (a) be prohibited from entering Labrador Inuit Lands;
- (b) be prohibited from applying for, or holding, a private interest in Labrador Inuit Lands; and
- (c) pay any costs and expenses incurred by the Nunatsiavut Government in restoring land or removing or demolishing a structure on land to the Nunatsiavut Government.

Minister may Refuse to Issue a private interest to an Offender

11.10

In addition to any other penalty, the Minister may refuse to issue a private interest to a person who has been found guilty of an offence under this Act or who has been found to be in breach of a term or condition applicable to a private interest under this Act

Time Limit for Complaints

11.11

A complaint alleging that an offence has been committed under section 11.8 may be laid or made on or before a day 12 months from the day when the offence first came to the notice of the Minister or an enforcement officer.

PART 12 PRESCRIBED FORMS AND REGULATIONS

Prescribed forms

12.1

Until a form is prescribed under a regulation enacted under this Part a person may use any form provided that it contains the information required under this Act and is acceptable:

- (a) to the Minister in the case of an application, and
- (b) to the Registrar of Land Titles in the case of an instrument or document filed for recording in the Registry of Land Titles.

Regulations by Executive Council

12.2

The President-in-Council may make regulations required to achieve the purpose of this Act with respect to the following matters:

- (a) prescribing fees for services in relation to this Act;
- (b) prescribing the circumstances in which all or part of a prescribed fee may be waived and who may waive a prescribed fee;
- (c) the appointment of officials to inquire into traditional tenures in Labrador Inuit Lands under Part 3 and the appointment of officials to determine the validity of claims in respect of abandoned lands under Part 7, and the proceedings of such inquiries and commissions;
- (d) the exercise of any power or function conferred on the Executive Council under this Act; and
- (d) regulations required for the effective administration and management of Labrador Inuit Lands and the implementation and continuation of a land titles system and the Registry of Land Titles.

Regulations by Minister

12.3

The Minister may make regulations:

- (a) respecting the operation of the Applications Registry and the Land Titles Registry;
- (b) prescribing forms required for the administration of this Act and in particular prescribing forms required for the administration of the Applications Registry and the Land Titles Registry;
- (c) prescribing standard forms for the issuance by the Nunatsiavut Government of private interests in Labrador Inuit Lands; including standard terms and conditions applicable to private interests;
- (d) prescribing standard forms for the transfer, conveyance and encumbrance of Labrador Inuit Lands;

- (e) prescribing rules, procedures and forms for the renewal of interests issued by the Nunatsiavut Government for a term of years under this Act;
- (f) prescribing rules, procedures and forms for the renewal of pre-existing interests;
- (g) setting out the requirements for verification and execution of documents submitted to the Applications Registry and the Land Titles Registry;
- (h) further prescribing the form and content of the applications record and the Register of Titles;
- (i) establishing the procedure for the exercise by the Registrar of Land Titles of any power or function under this Act;
- (j) prescribing the manner in which names and other particulars in documents submitted for recording by the Registrar of Land Titles shall appear;
- (k) prescribing information required to be included with an application for recording of an instrument or document pursuant to Part 8;
- (m) prescribing the manner in which documents may be electronically recorded or searched; and
- (n) in the exercise of any power or function conferred on the Minister under this Act.