



THE NEWFOUNDLAND AND LABRADOR GAZETTE

PART I

PUBLISHED BY AUTHORITY

Vol. 88

ST. JOHN'S, FRIDAY, DECEMBER 6, 2013

No. 49

URBAN AND RURAL PLANNING ACT, 2000

NOTICE OF REGISTRATION ST. JOHN'S URBAN REGION REGIONAL PLAN AMENDMENT NO. 3, 2013, ST. JOHN'S MUNICIPAL PLAN AMENDMENT NO. 111, 2013 AND ST. JOHN'S DEVELOPMENT REGULATIONS AMENDMENT NO. 560, 2013

TAKE NOTICE that the ST. JOHN'S Urban Region Regional Plan Amendment Number 3, 2013 adopted by the Minister of Municipal Affairs on the 27th day of June, 2013, has been approved by the Minister on the 4th day of October, 2013.

The ST. JOHN'S Urban Region Regional Plan is amended by re-designating land in the area of Blackhead Road/Blackhead Crescent from "Restricted" to "Urban Development".

Take notice that the St. John's Municipal Plan Amendment Number 111, 2013, and the St. John's Development Regulations Amendment Number 560, 2013, adopted on the 22nd day of July, 2013 and approved on the 3rd day of September, 2013, have been registered by the Minister of Municipal Affairs.

In general terms, the purpose of Municipal Plan Amendment Number 111, 2013, is to redesignate land east and south of Beaver Pond that is situated with frontage along sections of Blackhead Road and Blackhead Crescent from the Restricted (RES) Land Use District to the Rural (R) Land Use District.

In general terms, the purpose of Development Regulations Amendment Number 560, 2013, is to rezone land east and south of Beaver Pond that is situated with frontage along sections of Blackhead Road and Blackhead Crescent from the Open Space Reserve (OR) Zone and the Rural (R) Zone to the Rural Residential Infill (RRI) Zone.

These amendments come into effect on the date that this notice is printed in *The Newfoundland and Labrador Gazette*. Anyone who wishes to inspect a copy of the amendments may do so at the Department of Planning, 3rd Floor, St. John's City Hall during regular business hours.

CITY OF ST. JOHN'S
Ken O'Brien, MCIP – Chief Municipal Planner
Planning, Development and Engineering

Dec 6

CREDIT UNION ACT, 2009

NOTICE

IN THE MATTER of the *CREDIT UNION ACT, 2009*,
RSNL2009 cC-37.2 (the "Act")

AND

IN THE MATTER of CREDIT UNION CENTRAL OF
NEWFOUNDLAND AND LABRADOR, in voluntary
dissolution.

NOTICE

TAKE NOTICE that following receipt of a special
resolution of the Shareholders of CREDIT UNION
CENTRAL OF NEWFOUNDLAND AND LABRADOR,
(the "CREDIT UNION CENTRAL") passed on the 23rd
day of September, 2013, to such effect, the Registrar of
Credit Unions (NL) has issued a Certificate of Intent to
Dissolve the CREDIT UNION CENTRAL, on a voluntary
basis, which Certificate is dated the 7th day of November,
2013.

AND FURTHER TAKE NOTICE that in accordance with
the Act and the Resolution, all of the undertaking,
properties, assets and liabilities of the CREDIT UNION
CENTRAL shall now be distributed and discharged.

DATED at Marystown, Newfoundland and Labrador,
Canada, this 7th day of November, 2013.

CREDIT UNION
DEPOSIT GUARANTEE CORPORATION

ADDRESS FOR SERVICE:
P.O. Box 340
Marystown, NL A0E 2M0

Tel: (709) 279-0170
Fax: (709) 279-0177

Dec 6

LANDS ACT

NOTICE OF INTENT

Lands Act, c36, SNL 1991, as amended (the "Act")

NOTICE IS HEREBY given that ROSS ROWSELL of
Portage, NB intends to apply to the Department of
Environment and Conservation, two months from the
publication of this Notice, to acquire title, pursuant to
Subsection 7(2) of the *Lands Act*, to that piece of Crown
land situated within fifteen (15) metres of the waters of the
Rattling Brook, Green Bay, in the Electoral District of Baie
Verte - Springdale for the purpose of a recreational cottage
- wharf.

The land is described as follows:

*Bounded on the North by the waters of Southwest Arm
for a distance of 100 metres;*

*Bounded on the East by the waters of Southwest Arm
for a distance of 100 metres;
Bounded on the South by property of Ross Rowsell
for a distance of 100 metres;
Bounded on the West by property of Ross Rowsell
for a distance of 100 metres;
and containing an area of approximately
10,000 square metres.*

Any person wishing to object to the application must file
the objection, in writing, within one month from the
publication of this Notice, with reasons for it, to the
Minister of Environment and Conservation, and mail to the
nearest Regional Lands Office:

c/o Eastern Regional Lands Office, P.O. Box 8700, Howley
Building, Higgins Line, St. John's, NL, A1B 4J6.

c/o Central Regional Lands Office, P.O. Box 2222, Gander,
NL, A1V 1L7.

c/o Western Regional Lands Office, P.O. Box 2006, Sir
Richard Squires Building, Corner Brook, NL, A2H 6J8.

c/o Labrador Regional Lands Office, P.O. Box 3014,
Station "B", Happy Valley-Goose Bay, NL, A0P 1E0.

For further information on the proposed application, please
contact: ADA ROWSELL, Telephone number: (709) 652-
3347

(DISCLAIMER: *The Newfoundland and Labrador Gazette*
publishes a NOTICE OF INTENT as received from the Applicant
and takes no responsibility for errors or omissions in the property
being more particularly described.)

Dec 6

MECHANICS' LIEN ACT

**NOTICE OF INTENTION TO RELEASE
MECHANICS' LIEN HOLDBACK
PURSUANT TO SECTION 12
OF THE MECHANICS' LIEN ACT,
RSNL1990 cM-3 (THE "ACT")**

PURSUANT TO section 12 of the Act, and in relation
to a contract 96049 OW entered into between PRAXAIR
CANADA INC., and E.S. FOX LIMITED which contract
is dated as of August 16th, 2012, notice is hereby given
of the intention of PRAXAIR CANADA INC., to the
release of mechanics' lien holdback funds 30 days
following the date of this notice.

Dated at St. John's, NL, this 27th day of November,
2013.

E.S. FOX LTD
Steve Doyle, Area Manager

Dec 6

QUIETING OF TITLES ACT

**2013 04T 00202
IN THE SUPREME COURT OF
NEWFOUNDLAND AND LABRADOR
TRIAL DIVISION (GENERAL)**

IN THE MATTER OF that piece or parcel of land situate and being at River of Ponds, in the Province of Newfoundland and Labrador

AND

IN THE MATTER OF the Application of DEREK PATEY for a Certificate of Title of the said piece or parcel of land pursuant to the Quieting of Titles Act, RSNL1990, cQ-3, as amended

NOTICE

NOTICE is hereby given to all persons that DEREK PATEY, as owner, has applied to the Supreme Court of Newfoundland and Labrador, Trial Division, at Corner Brook, Newfoundland and Labrador, to have investigated the title to ALL THAT piece or parcel of land situate and being at the Town of River of Ponds, in the Province of Newfoundland and Labrador, and further bounded and described as set forth in the Schedule "A" attached hereto; and for a Declaration that the said DEREK PATEY and his wife, Selma Patey, are the absolute owners thereof and the said DEREK PATEY has been ordered to publish this notice of the Application as required by the above named Act.

All persons having title adverse to the said title claimed by the said DEREK PATEY shall file with the Deputy Registrar of the Supreme Court of Newfoundland and Labrador, Trial Division, at Corner Brook, Newfoundland and Labrador, particulars of such adverse claim and serve same together with an Affidavit verifying the same to the undersigned solicitor for the owner on or before the 23rd day of December, 2013 after which date no party having any claim shall be permitted to file the same or be heard except by leave of the Court and subject to such terms and conditions as the Court may deem just.

All such adverse claims shall then be investigated in such manner as the Court may direct.

DATED at the City of Corner Brook, in the Province of Newfoundland and Labrador, this 26th day of November, 2013.

POOLE ALTHOUSE
Solicitors for the Owner, DEREK PATEY
PER: J. Annette Bennett

ADDRESS FOR THE SERVICE:
49-51 Park Street
Corner Brook, NL A2H 2X1

Tel: (709) 634-3136
Fax: (709) 634-8247

SCHEDULE "A"

All that piece or parcel of land situated and being at River of Ponds, in the Electoral District of St. Barbe, Province of Newfoundland and Labrador, being abutted and bounded as follows, that is to say:

BEGINNING at a survey marker in the northwesterly limit of High Street, said marker being south fifty-nine degrees fifty-one minutes sixteen seconds west (S 59° 51' 16" W), three hundred sixty-four decimal six one nine (364.619) metres from Province of Newfoundland and Labrador Control Survey Monument No. 87G-3085;

THENCE running by the northwesterly limit of the aforesaid High Street, south forty-nine degrees zero four minutes twenty-five seconds west (S 49° 04' 25" W), two decimal zero zero zero (2.000) metres to a survey marker;

THENCE running by Application No. 139124, Crown Land occupied by Amanda Sheppard, and also by Crown Land, north twenty-four degrees thirty-four minutes thirty seconds west (N 24° 34' 30" W), forty-eight decimal nine three six (48.936) metres to a survey marker;

THENCE running by Application No. 139189, Crown Land occupied by Amos S. Patey, north sixty-eight degrees fifty-eight minutes thirty-seven seconds east (N 68° 58' 37" E), six decimal two five five (6.255) metres to a survey marker;

And south nineteen degrees twenty-five minutes thirty-five seconds east (S19° 25' 35" E), forty-eight decimal one eight zero (48.180) metres, more or less, to the point of beginning;

The above described parcel of land being subject to a pole-line easement, six (6) metres wide, extending through the said land;

The above described parcel of land containing an area of one hundred ninety-seven decimal five nine (197.59) square metres, more or less;

All bearings being referred to the Meridian of fifty-six degrees zero minutes west longitude of the Three Degree Modified Transverse Mercator Projection, Zone 2, NAD-83 for the Province of Newfoundland and Labrador.

R.P. NOSEWORTHY
Newfoundland and Labrador Land Surveyor
CORNER BROOK

Date: November 05, 2012

TRUSTEE ACT
ESTATE NOTICE

IN THE MATTER OF the Estate and Effects of late ELIZABETH WINNIE BOWERING of the Town of Carmanville, in the Province of Newfoundland and Labrador, Retired Person, Deceased.

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of ELIZABETH WINNIE BOWERING, the aforesaid deceased, who died at the Town of Gander, in the Province of Newfoundland and Labrador on or about the 14th day of February, 2013, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned Solicitor for the Executrix of the Estate on or before the 9th day of December, 2013 after which date the Executrix will proceed to distribute the said Estate having regard only to the claims of which she shall then have had notice.

DATED at the Town of Gander, Newfoundland and Labrador, this 19th day of November, 2013.

BONNELL LAW
Solicitor for the Executrix
PER: R. Archibald Bonnell

ADDRESS FOR SERVICE:
P.O. Box 563
218 Airport Boulevard
Gander, NL A1V 2E1

Tel: (709) 651-4949
Fax: (709) 651-4951

Nov 29 & Dec 6

ESTATE NOTICE

IN THE MATTER OF the Estate of REGINALD JOSEPH BENNETT, late of the Town of Stephenville Crossing in the Province of Newfoundland and Labrador, businessman, Divorced, Deceased.

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of REGINALD JOSEPH BENNETT, late of the Town of Stephenville Crossing, Newfoundland and Labrador, deceased, are hereby requested to send the particulars of the same in writing, duly attested, to the undersigned Solicitor for the Executor of the Estate on or before the 6th day of January, 2014, after which date the said Executor will proceed to distribute the said Estate having regard only to the claims of which notice shall have been received.

DATED at Stephenville, Newfoundland and Labrador this 29th day of November, 2013.

MILLS & GALLANT
Solicitors for the Estate
PER: David A. Mills

ADDRESS FOR SERVICE:
P.O. Box 447, 87 Gallant Street
Stephenville, NL A2N 3A3

Tel: (709) 643-5688
Fax: (709) 643-2906

Dec 6

ESTATE NOTICE

IN THE MATTER OF the Estate and Effects of late FRANK COLBERT of the Town of St. Brendan's, in the Province of Newfoundland and Labrador, Retired Person, Deceased.

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of FRANK COLBERT, the aforesaid deceased, who died at the Town of Gander, in the Province of Newfoundland and Labrador, on or about the 1st day of October, 2013, are hereby requested to send particulars thereof in writing, duly attested, to the undersigned Solicitor for the Administratrix of the Estate on or before the 13th day of December, 2013 after which date the Administratrix will proceed to distribute the said Estate having regard only to the claims of which she shall then have had notice.

DATED at the Town of Gander, Newfoundland and Labrador, this 25th day of November, 2013.

BONNELL LAW
Solicitor for the Administratrix
PER: R. Archibald Bonnell

ADDRESS FOR SERVICE:
P.O. Box 563
218 Airport Boulevard
Gander, NL A1V 2E1

Tel: (709) 651-4949
Fax: (709) 651-4951

Dec 6

ESTATE NOTICE

IN THE MATTER OF the Estate of GODDEN LEGGE, late of the Community of Robinsons, in the Province of Newfoundland and Labrador, Bachelor, Retired Farmer, Deceased.

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of GODDEN LEGGE, late of the Community of Robinsons, Newfoundland and Labrador, deceased, are hereby requested to send the particulars of the same in writing, duly attested, to the undersigned Solicitor for the Executor of the Estate on or before the 6th day of January, 2014, after

which date the said Executor will proceed to distribute the said Estate having regard only to the claims of which notice shall have been received.

DATED at Stephenville, Newfoundland and Labrador this 29th day of November, 2013.

MILLS & GALLANT
Solicitors for the Estate
PER: David A. Mills

ADDRESS FOR SERVICE:
P.O. Box 447, 87 Gallant Street
Stephenville, NL A2N 3A3

Tel: (709) 643-5688
Fax: (709) 643-2906

Dec 6

ESTATE NOTICE

IN THE MATTER of the Estate of LINTON WILLIAM SHEPPARD, late of the Town of York Harbour, in the Province of Newfoundland and Labrador, Deceased.

All persons claiming to be creditors of or who have any claims or demands upon or affecting the Estate of LINTON WILLIAM SHEPPARD, late of Town of York Harbour, in the Province of Newfoundland and Labrador, deceased, are hereby requested to send particulars of the same in writing, duly attested to the undersigned Solicitors for the Administrator of the Estate, Brian Linton Sheppard, on or before the 21st day of December, 2013, after which date the said Administrator, having been granted Letters of Administration on the 30th day of September, 2009, will proceed to distribute the said Estate having regard only to the claims of which he shall then have had notice.

DATED at the City of Corner Brook, Province of Newfoundland and Labrador, this 26th day of November, 2013.

POOLE ALTHOUSE
Solicitors for the Administrator
PER: Meredith D. Baker

ADDRESS FOR SERVICE:
49-51 Park Street
Corner Brook, NL A2H 2X1

Tel: (709) 634-3136
Fax: (709) 634-8247

Dec 6



THE NEWFOUNDLAND AND LABRADOR GAZETTE

PART II

SUBORDINATE LEGISLATION
FILED UNDER THE STATUTES AND SUBORDINATE LEGISLATION ACT

Vol. 88

ST. JOHN'S, FRIDAY, DECEMBER 6, 2013

No. 49

NEWFOUNDLAND AND LABRADOR REGULATIONS

NLR 118/13

NLR 119/13

NLR 120/13

NLR 121/13

CORRECTION NOTICE NLR 119/13



**NEWFOUNDLAND AND LABRADOR
REGULATION 118/13**

*Proclamation bringing the Act into force
(SNL2012 c47) (Nov. 29/13)
under the*

*An Act to Amend the Electrical Power Control Act, 1994, the Energy
Corporation Act and the Hydro Corporation Act, 2007
(O.C. 2013-341)*

(Filed November 29, 2013)

*ELIZABETH THE SECOND, by the Grace of God of the
United Kingdom, Canada and Her Other Realms and Territories
QUEEN, Head of the Commonwealth, Defender of the Faith.*

FRANK F. FAGAN
Lieutenant Governor

THOMAS W. MARSHALL, Q.C.
Attorney General

TO ALL TO WHOM THESE PRESENTS SHALL COME,

GREETING;

A PROCLAMATION

WHEREAS in and by section 17 of "*An Act to Amend the Electrical Power Control Act, 1994, the Energy Corporation Act and the Hydro Corporation Act, 2007*", SNL2012 c47, (the "Act") it is provided that the Act shall come into force on a date to be fixed by Proclamation of Our Lieutenant Governor in Council;

AND WHEREAS it is deemed expedient that the Act shall now come into force;

NOW KNOW YE, THAT WE, by and with the advice of Our Executive Council of Our Province of Newfoundland and Labrador, do by this our Proclamation declare and direct that "*An Act to Amend the Electrical Power Control Act, 1994, the Energy Corporation Act and the Hydro Corporation Act, 2007*", SNL2012 c47, shall come into force on the date of publication of this proclamation in *The Newfoundland and Labrador Gazette*.

OF ALL WHICH OUR LOVING SUBJECTS AND ALL OTHERS whom these Presents may concern are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF WE have caused these Our Letters to be made Patent and the Great Seal of Newfoundland and Labrador to be hereunto affixed.

WITNESS: Our trusty and well-beloved the Honourable Frank F. Fagan, Member of the Order of Canada, Chancellor of the Order of Newfoundland and Labrador, Lieutenant Governor in and for Our Province of Newfoundland and Labrador.

AT OUR GOVERNMENT HOUSE
in Our City of St. John's
this 29th day of November,
in the year of Our Lord two thousand thirteen
in the sixty-second year of Our Reign.

BY COMMAND,

STEVE KENT
Registrar General

Correction Notice

(December 6, 2013)

The *Maritime Link Exemption Order*, Newfoundland and Labrador Regulation 119/13, published under the *Electrical Power Control Act, 1994* and the *Public Utilities Act* by *Extraordinary Gazette* on Friday, November 29, 2013, p.5, is corrected in paragraph 2(1)(g) by replacing the words "Nova Scotia Power" with the abbreviation "NSP".

An incorrect name of a corporation was referenced in the original publication.



**NEWFOUNDLAND AND LABRADOR
REGULATION 119/13**

Maritime Link Exemption Order
under the
Electrical Power Control Act, 1994
and the
Public Utilities Act
(O.C. 2013-349)

(Filed November 29, 2013)

Under the authority of section 5.2 of the *Electrical Power Control Act, 1994* and section 4.1 of the *Public Utilities Act*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, November 29, 2013.

Julia Mullaey
Clerk of the Executive Council

ORDER

Analysis

- | | |
|---------------------|---|
| 1. Short title | 4. Exemption, Muskrat Falls Corporation |
| 2. Interpretation | 5. Exemption, subsidiary |
| 3. Public utilities | 6. Exemption, NSPML |

Short title **1.** This Order may be cited as the *Maritime Link Exemption Order*.

Interpretation **2.** (1) In this Order

- (a) "ECA" means the Energy and Capacity Agreement dated July 31, 2012;
- (b) "energy corporation" means the corporation defined in the *Energy Corporation Act*;
- (c) "forgivable event" means
 - (i) an event of force majeure,
 - (ii) a planned maintenance period,
 - (iii) a suspension of delivery of energy and capacity or of acceptance of energy and capacity, in order to safeguard life or property by making repairs to the facilities, or
 - (iv) an action required to be taken to comply with good utility practice;
- (d) "Maritime Link" means
 - (i) the Maritime Link AC facilities, and
 - (ii) the Maritime Link DC facilities;
- (e) "Maritime Link AC facilities" means the following assets to be constructed which will form part of the Maritime Link:
 - (i) the Bottom Brook 230 KV terminal station,
 - (ii) the Granite Canal 230KV switchyard, and
 - (iii) the 230 KV transmission line from the Granite Canal switchyard to the Bottom Brook 230kV terminal station;
- (f) "Maritime Link DC facilities" means the following assets to be constructed which will form part of the Maritime Link:
 - (i) HVDC transmission lines from the Bottom Brook Converter Station to the Cape Ray Transition Compound,

- (ii) submarine cables from the Cape Ray Transition Compound to Cape Breton,
- (iii) the Bottom Brook converter station,
- (iv) the Cape Ray transition compound, which transitions the transmission line described in subparagraph (i) from overhead to underground,
- (v) the shore line grounding station located at Port Harmon, and associated grounding line from the Bottom Brook converter station to the grounding station, and
- (vi) the AC lines connecting the Bottom Brook converter station to the Bottom Brook 230Kv terminal station;
- (g) "NSPML" means NSP Maritime Link Inc.; and
- (h) "subsidiary" means a subsidiary of the energy corporation as that term is used in the *Energy Corporation Act*.

(2) In this order, references to a corporation, where the corporation does not exist as of the date of this order coming into force, shall be valid upon the creation of the corporation under the *Energy Corporation Act* and the *Corporations Act*.

Public utilities

3. Muskrat Falls Corporation and NSPML are acknowledged to be public utilities under the *Public Utilities Act* for the purpose of this Order.

Exemption, Muskrat Falls Corporation

4. (1) Muskrat Falls Corporation or another subsidiary is exempt from the application of the following sections of the *Electrical Power Control Act, 1994*:

- (a) sections 16, 17 and 18, for all aspects of its activities pertaining to firm and non-interruptible commitments under the ECA; and
- (b) section 19, for all aspects of its activities pertaining to the ECA, to the extent that an action taken by the Muskrat Falls Corporation or a subsidiary to give effect to an order made or exercised by the emergency controller shall not be protected by the operation of section 19, and shall be subject to

the remedies under the ECA or be considered a breach of the ECA, according to the terms of that agreement.

(2) Notwithstanding paragraph (1)(a), sections 16, 17 and 18 of the *Electrical Power Control Act, 1994* shall apply to Muskrat Falls Corporation or another subsidiary in the event that

- (a) the Lieutenant Governor in Council appoints an emergency controller under subsection 16(5) of the *Electrical Power Control Act, 1994* for an actual emergency due to actual damage to, destruction, failure, or breakdown of, works, plant or equipment or distribution facilities used in the generation or transmission of power; and
- (b) the emergency controller issues an order under paragraph 16(2)(d) of the *Electrical Power Control Act, 1994* which
 - (i) curtails the delivery of all energy supplied to the province on a non-firm and interruptible basis, excluding imports, before curtailing the delivery of energy supplied to the province on a firm and non-interruptible basis,
 - (ii) curtails proportionately firm and non-interruptible commitments to deliver energy and capacity to the province, excluding imports, and
 - (iii) curtails proportionately firm and non-interruptible commitments to deliver energy and capacity from the Muskrat Falls plant.

(3) This section applies to the Muskrat Falls Corporation or a subsidiary

- (a) where the subsidiary is a public utility;
- (b) where the ECA is transferred to the Muskrat Falls Corporation or that subsidiary; and
- (c) from the day that energy and capacity is first delivered under the ECA until a day 35 years later, unless the initial term of the ECA is extended due to a forgivable event, but shall not apply to extensions or subsequent terms to the ECA.

Exemption, subsidiary

5. (1) A subsidiary is exempt from section 10 of the *Electrical Power Control Act, 1994* for all aspects of its activities pertaining to the Energy Access Agreement, dated October 18, 2013, to the extent that an action taken by the subsidiary to give effect to an order made or exercised by the Public Utilities Board shall not be protected by the operation of section 10, and shall be subject to the remedies under that agreement or be considered a breach of that agreement, according to the terms of that agreement.

(2) This section applies

(a) where the subsidiary is a public utility;

(b) where the Energy Access Agreement is transferred to that subsidiary; and

(c) for the term of the Energy Access Agreement, but shall not apply to extensions or subsequent terms to the Energy Access Agreement.

Exemption, NSPML

6. (1) NSPML is exempt from the application of the following sections of the *Public Utilities Act*:

(a) sections 13, 36, 39, 41, 43, 48, 58, 59, 64, 68, 69, 71, 80, 82 and 91, for all aspects of its activities pertaining to the Maritime Link;

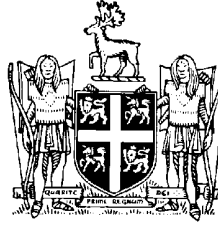
(b) section 70, with respect to energy exported from the Province over the Maritime Link; and

(c) sections 38 and 53, in relation to the Maritime Link DC Facilities.

(2) The exemptions in this section apply to the extent that NSPML is not recovering costs from ratepayers in the province.

©Queen's Printer

(Includes correction of December 6, 2013)



**NEWFOUNDLAND AND LABRADOR
REGULATION 120/13**

Muskrat Falls Project Exemption Order
under the
Electrical Power Control Act, 1994
and the
Public Utilities Act
(O.C. 2013-342)

(Filed November 29, 2013)

Under the authority of section 5.2 of the *Electrical Power Control Act, 1994* and section 4.1 of the *Public Utilities Act*, the Lieutenant-Governor in Council makes the following Order.

Dated at St. John's, November 29, 2013.

Julia Mullaey
Clerk of the Executive Council

REGULATIONS

Analysis

- | | |
|-------------------|---------------------|
| 1. Short title | 3. Public utilities |
| 2. Interpretation | 4. Exemption |

Short title **1.** This Order may be cited as the *Muskrat Falls Project Exemption Order*.

Interpretation **2.** (1) In this Order

- (a) "LiL" means the transmission line and all related components of the Muskrat Falls Project described in section 2.1(1)(a)(ii) of the *Energy Corporation Act*, and for greater certainty "all related components" in that subparagraph includes converter stations, synchronous condensers, and terminal, telecommunications, and switchyard equipment;
 - (b) "LiLParty" means Labrador-Island Link Holding Corporation, the Labrador-Island Link General Partner Corporation, the Labrador-Island Link Limited Partnership, or Labrador-Island Link Operating Corporation, or any combination of them as the context may require;
 - (c) "LTA" means the transmission facilities of the Muskrat Falls Project described in subparagraph 2.1(1)(a)(iii) of the *Energy Corporation Act*;
 - (d) "LTACo" means the Labrador Transmission Corporation;
 - (e) "MFCo" means the Muskrat Falls Corporation;
 - (f) "Muskrat Falls" means the hydroelectric facilities of the Muskrat Falls Project as described in subparagraph 2.1(1)(a)(i) of the *Energy Corporation Act*.
- (2) In this Order, references
- (a) to a public utility or an activity being "exempt" means the public utility or the activity is exempt from the application of
 - (i) the *Public Utilities Act*, and
 - (ii) Part II of the *Electrical Power Control Act, 1994*; and
 - (b) to a corporation or limited partnership, where the corporation or limited partnership does not exist as of the date of this Order coming into force, shall be valid upon the creation of the corporation or limited partnership under the *Energy Corporation Act* and the *Corporations Act* or the *Limited Partnership Act*.

Public utilities

3. LilParty, LTACo and MFCo are acknowledged to be public utilities under the *Public Utilities Act* for the purpose of this Order.

Exemption

4. (1) Newfoundland and Labrador Hydro is exempt in respect of

(a) any

(i) expenditures, payments, or compensation paid to MFCo by Newfoundland and Labrador Hydro relating to the purchase and storage of electrical power and energy, the purchase of interconnection facilities, ancillary services, and greenhouse gas credits,

(ii) obligations of Newfoundland and Labrador Hydro in addition to subparagraph (i) to ensure MFCo's and LTACo's ability to meet their respective obligations under financing arrangements related to the construction and operation of Muskrat Falls and the LTA, and

(iii) expenditures, payments, or compensation paid to MFCo and revenues, proceeds or income received by Newfoundland and Labrador Hydro relating to the sale of electrical power and energy acquired from MFCo to persons located outside of the province

whether under one or more power purchase agreements or otherwise;

(b) any activity relating to the receipt of delivery, use, storage or enjoyment by Newfoundland and Labrador Hydro of any electrical power and energy, interconnection facilities, ancillary services, and greenhouse gas credits under paragraph (a);

(c) any expenditures, payments, or compensation paid to LilParty and claimed as costs, expenses or allowances by Newfoundland and Labrador Hydro relating to the design, engineering, construction and commissioning of transmission assets and the purchase of transmission services and ancillary services, electrical power and energy, from LilParty or otherwise with respect to the LiL, under one or more transmis-

sion services agreements, transmission funding agreements, or otherwise; and

- (d) any activity relating to the receipt of delivery, use, storage or enjoyment by Newfoundland and Labrador Hydro of any transmission services and ancillary services, electrical power and energy, with respect to the LiL under paragraph (c).

(2) MFCo is exempt in respect of any activity, and any expenditures, payments or compensation, or any revenues, proceeds or income, relating to the following:

- (a) the design, engineering, planning, construction, commissioning, ownership, operation, maintenance, management and control of Muskrat Falls;
- (b) producing, generating, storing, transmitting, delivering or providing electric power and energy, capacity, ancillary services, and greenhouse gas credits, to or for Newfoundland and Labrador Hydro or any other person or corporation for compensation;
- (c) any activity required or related to an agreement under section 5.4 or 5.5 of the *Electrical Power Control Act, 1994*;
- (d) negotiating, concluding, executing and performing any and all agreements for any activity referred to in paragraph (a), (b) or (c);
- (e) raising and securing financing necessary to conduct any activity in paragraph (a), (b), (c) or (d), including without limitation the negotiation, conclusion, execution and performance of any and all agreements and security documentation with any lender providing that financing; and
- (f) any agreements, contracts or instruments necessary or incidental to any activity described in this exemption, including agreements with LTACo.

(3) LilParty is exempt in respect of any activity, and any expenditures, payments or compensation, or any revenues, proceeds or income, relating to the following:

- (a) the design, engineering, planning, construction, commissioning, ownership, operation, maintenance, management and control of the LiL;
 - (b) producing, generating, storing, transmitting, delivering or providing electric power and energy to or for Newfoundland and Labrador Hydro or any other person or corporation for compensation;
 - (c) negotiating, concluding, executing and performing any and all agreements for activities referred to in paragraph (a) or (b);
 - (d) raising and securing any financing necessary to conduct any activity in paragraph (a), (b) or (c), including without limitation the negotiation, conclusion, execution and performance of any and all agreements and security documentation with any lender providing that financing; and
 - (e) any agreements, contracts or instruments necessary or incidental to any activity described in this exemption, including agreements between one or more LiLParty.
- (4) LTACo is exempt in respect of any activity, and any expenditures, payments or compensation, or any revenues, proceeds or income, relating to the following:
- (a) the design, engineering, planning, construction, commissioning, ownership, operation, maintenance, management and control of the LTA;
 - (b) producing, generating, storing, transmitting, delivering or providing electric power and energy to or for Newfoundland and Labrador Hydro or any other person or corporation for compensation;
 - (c) negotiating, concluding, executing and performing any and all agreements for activities referred to in paragraphs (a) and (b);
 - (d) raising and securing any financing necessary to construct the LTA, including without limitation the negotiation, conclusion, execution and performance of any and all agreements

and security documentation with any lender providing that financing to the projects; and

- (e) any agreements, contracts or instruments necessary or incidental to any activity described in this exemption, including agreements with MFCo.

©Queen's Printer



NEWFOUNDLAND AND LABRADOR REGULATION 121/13

Muskrat Falls Project Land Use and Expropriation Regulations
under the
Muskrat Falls Project Land Use and Expropriation Act
(O.C. 2013-346)

(Filed November 29, 2013)

Under the authority of sections 11, 47, and 58 of the *Muskrat Falls Project Land Use and Expropriation Act*, the Lieutenant-Governor in Council makes the following regulations.

Dated at St. John's, November 29, 2013.

Julia Mullaley
Clerk of the Executive Council

REGULATIONS

Analysis

- | | |
|---|---|
| 1. Short title | 6. Request does not meet requirements |
| 2. Definitions | 7. Notice of expropriation |
| PART I
STATUTORY EASEMENT | |
| 3. Statutory easement | 8. Re-application |
| PART II
EXPROPRIATION
PROTOCOL | |
| 4. Compensation further to negotiated agreement | 9. Notice of abandonment |
| 5. Application for expropriation | 10. Further expropriation |
| | 11. Application for expropriation on an urgent basis |
| | 12. Approval of expropriation by Lieutenant-Governor in Council |
| | 13. Register of expropriations |
| | 14. Value of compensation |

PART III DETERMINATION OF COMPENSATION	29. Costs
15. Negotiated agreement not precluded by arbitration	30. Action barred
16. Arbitration panel established	31. Special case
17. Quorum and operations of arbitration panel	32. Appeal
18. Types of hearings	PART IV PAYMENT INTO TRUST
19. Commencement of proceed- ings	33. Costs and interest
20. Notice	34. Payment into trust
21. Pre-hearing conference	PART V LAND USE AND PERMITTING
22. Response by parties	35. Permit
23. Hearing of application	36. Application
24. Representation	37. Compatible use
25. Extension or reduction of time periods	38. Permit for use
26. Confidential business infor- mation	39. Permit for development
27. Recording, amendment or consolidation of proceedings	40. Cancellation of permit
28. Dismissal of application	41. Prior development
	42. Other prescribed purposes
	43. Repeal
	Schedule

Short title

1. These regulations may be cited as the *Muskrat Falls Project Land Use and Expropriation Regulations*.

Definitions

2. In these regulations

(a) "Act" means the *Muskrat Falls Project Land Use and Expropriation Act*;

(b) "applicant"

(i) for the purpose of Part III, means a person who makes an application to the arbitration panel, and includes a person who requests that a matter be referred to the arbitration panel, and

(ii) for the purpose of Part V, means a person who makes an application to the minister for a permit under that Part;

(c) "appraisal" means an appraisal of the value of land prepared in accordance with the Act and these regulations;

- (d) "arbitration tribunal" means 3 members of the arbitration panel appointed to determine compensation owing for or related to an expropriation under the Act and these regulations;
- (e) "claimant" means
 - (i) a person who may be entitled to compensation for reasonable incidental damages in accordance with section 15 of the Act,
 - (ii) a person who, as a result of an expropriation, may be entitled to compensation for detrimental affection in accordance with the Act, or
 - (iii) a lessee who may be entitled to compensation under section 26 of the Act;
- (f) "compensation" means the compensation payable by a proponent to a landowner or claimant under section 22 of the Act;
- (g) "electronic hearing" means a hearing held by teleconference, videoconference or other form of electronic technology allowing simultaneous communication;
- (h) "hearing" means a proceeding to determine compensation for or related to an expropriation under the Act and these regulations which may be an oral hearing, a written hearing or an electronic hearing;
- (i) "motion" means a request that the arbitration panel make a decision or give a direction at any stage in a proceeding;
- (j) "oral hearing" means a hearing at which a party or its counsel or representatives attend before the arbitration panel members in person;
- (k) "party" means a proponent, a landowner whose land has been expropriated in accordance with the Act and these regulations or a claimant;

- (l) "person" means a natural person, corporation, partnership, limited partnership, joint venture, estate or other juridical entity recognized by the laws of the province;
- (m) "prescribed form" means the form prescribed by the minister;
- (n) "representative" means a person authorized by a person who is a party to represent that person at a hearing, including a member as defined in the *Law Society Act, 1999*;
- (o) "visual evidence" means an image or an image with sound intended to be introduced into evidence at a hearing and includes a computer-generated image, photograph, map, video, plan, survey, model and overlay;
- (p) "written evidence" means material intended to be introduced into evidence at a hearing and includes a report, letter, correspondence, notice, memo, form, agreement, email, chart, graph, books of account, and written communication recorded or stored by means of any device; and
- (q) "written hearing" means a hearing held by means of the exchange of documents whether in written or electronic form.

PART I
STATUTORY EASEMENT

Statutory easement

3. (1) The rights and obligations granted in an instrument creating a statutory easement with respect to Crown land include the following:

- (a) the holder of a statutory easement
 - (i) is granted the right to remove trees and shrubbery on the statutory easement where, in the reasonable opinion of the holder of the statutory easement, the trees or shrubbery interfere with the construction, maintenance, repair or operation of transmission lines or transmission assets, and
 - (ii) is granted the right to remove obstructions on the statutory easement where, in the reasonable opinion of the holder of the statutory easement, the obstruction inter-

feres with the construction, maintenance, repair or operation of the transmission lines or the transmission assets;

(b) the holder of a statutory easement

(i) shall pay an annual rental fee by the specified date during the currency of the statutory easement,

(ii) shall notify the minister, in writing,

(A) before creating a security interest in the statutory easement under subsection 7(2) of the Act, of the identity of the secured creditor and the nature of the security interest to be granted,

(B) of any proceedings undertaken in relation to a security interest in the statutory easement, and

(C) of an assignment or transfer of a statutory easement as part of a realization on a security interest;

(c) the holder of a statutory easement shall, as a condition of transferring a statutory easement, submit to the minister an executed assignment agreement in the prescribed form;

(d) the holder of a statutory easement shall, as a condition of leasing a statutory easement or assigning rights to land under a statutory easement, for a term and in a manner which leaves the assignor with a reversionary interest in those rights,

(i) obtain the agreement in writing of the lessee or assignee to be bound by and abide by the terms and condition of the statutory easement,

(ii) provide a copy of the executed agreement to the minister, and

(iii) execute any further documents requested by the minister to give effect to the lease or assignment;

- (e) the holder of a statutory easement shall indemnify the Crown for the holder's actions and the actions of its servants, agents, contractors, subcontractors and suppliers on the statutory easement; and
 - (f) the holder of a statutory easement shall not erect a fence or other barrier on a statutory easement, except
 - (i) during construction and maintenance of the transmission lines and transmission assets, and
 - (ii) for the purpose of protection against specific perils.
- (2) The rights and obligations granted in the instrument creating a statutory easement with respect to land which is not Crown land include the following:
- (a) the holder of a statutory easement
 - (i) is granted the right to remove trees and shrubbery on the statutory easement where, in the reasonable opinion of the holder of the statutory easement, the trees or shrubbery interfere with the construction, maintenance, repair or operation of transmission lines or transmission assets, and
 - (ii) is granted the right to remove obstructions on the statutory easement where, in the reasonable opinion of the holder of the statutory easement, the obstruction interferes with the construction, maintenance, repair or operation of the transmission lines or the transmission assets; and
 - (b) the holder of a statutory easement shall notify the person whose land is subject to a statutory easement, in writing,
 - (i) of any proceedings undertaken in relation to a security interest in the statutory easement, and
 - (ii) of an assignment or transfer of a statutory easement as part of a realization on a security interest;

- (c) the holder of a statutory easement shall, as a condition of transferring a statutory easement, submit to the person whose land is subject to a statutory easement an executed assignment agreement in the prescribed form;
 - (d) the holder of a statutory easement shall, as a condition of leasing a statutory easement or assigning rights to land under a statutory easement
 - (i) obtain the agreement in writing of the lessee or assignee to be bound by and abide by the terms and condition of the statutory easement, and
 - (ii) provide a copy of the executed agreement to the person whose land is subject to a statutory easement;
 - (e) the holder of a statutory easement shall indemnify the person whose land is subject to a statutory easement for the holder's actions and the actions of its servants, agents, contractors, subcontractors and suppliers on the statutory easement; and
 - (f) the holder of a statutory easement shall not erect a fence or other barrier on a statutory easement, except
 - (i) during construction and maintenance of the transmission lines and transmission assets, and
 - (ii) for the purpose of protection against specific perils.
- (3) A secured creditor with a security interest in a statutory easement may perform an obligation of a holder of a statutory easement under the statutory easement, but the holder of the statutory easement shall remain responsible for any resulting liability.
- (4) The annual rental rate due by the holder of a statutory easement granted by the Crown shall be set by the minister, and shall be reviewed every 5 years and be adjusted as the minister determines is appropriate.
- (5) Notwithstanding paragraph (1)(f), the minister may, on reasonable grounds, direct that public access be granted on or across Crown land for which a statutory easement has been granted.

(6) Where the holder of a statutory easement is in breach of paragraph (1)(e) or (2)(e) or subsection 6(3) or 7(3) of the Act and that breach has not been cured within 180 days of notice being provided to the holder and secured creditors with a security interest in the statutory easement, the minister may declare that the statutory easement is null and void and the statutory easement shall revert to

- (a) the Crown, where the Crown granted the statutory easement;
or
- (b) the landowner who granted the statutory easement.

(7) A breach referred to in subsection (6) that cannot be cured by a secured creditor with a security interest in a statutory easement shall be considered cured if, within 180 days of notice being provided to the secured creditor under subsection (6), the secured creditor

- (a) assumes the rights and obligations under the statutory easement, by submitting to the minister an executed agreement in the prescribed form;
- (b) pays any outstanding monetary obligations under the statutory easement; and
- (c) begins performing the obligations under the statutory easement.

(8) Unpaid rent owing by a statutory easement holder to the Crown is a debt due to the Crown and is recoverable as such.

(9) Where the holder of a statutory easement fails to use the rights granted by the statutory easement for a purpose related to the Muskrat Falls Project or a part of it for a period of 7 consecutive years, the minister may declare that the statutory instrument is null and void and the statutory easement shall revert to

- (a) the Crown, where the Crown granted the statutory easement;
or
- (b) the landowner who granted the statutory easement.

(10) An instrument creating a statutory easement under the authority of section 6 of the Act which is not in the form prescribed by the minister is invalid.

**PART II
EXPROPRIATION PROTOCOL**

Negotiation re-
quired

4. (1) Where a proponent requires land which, in the opinion of the proponent, is necessary for the Muskrat Falls Project, the proponent shall negotiate with the landowner for that land before an application may be made under this Part.

(2) A proponent, with respect to a negotiation under this section and in the conduct of its dealings under the Act and these regulations generally, shall negotiate in good faith with

(a) a landowner who owns land which, in the opinion of the proponent, is necessary for the Muskrat Falls Project; and

(b) a claimant.

(3) A proponent shall offer to pay to a landowner or a claimant the compensation that is consistent with the rules for compensation prescribed in section 22 of the Act in the context of a negotiation under this section.

Application for
expropriation

5. (1) Where a proponent requires land which, in the opinion of the proponent, is necessary for the Muskrat Falls Project, the proponent may, under the authority of paragraph 12(1)(b) of the Act, make an application to the expropriating authority requesting that the expropriating authority expropriate the land on the proponent's behalf.

(2) An application for expropriation shall be in the prescribed form and shall include the following information:

(a) a general description of the land to be expropriated, including the nature of the interest to be expropriated;

(b) a declaration of an officer of the proponent that the land to be expropriated is, in the opinion of the proponent, necessary for the Muskrat Falls Project;

- (c) the circumstances set out in subsection 12(5) of the Act that apply to the request;
- (d) the identity of any person claiming to have an interest in the land to be expropriated, if known;
- (e) the details of negotiations which have been undertaken with respect to the acquisition by the proponent of the land to be expropriated and any offer which the proponent has made or, where no offer has been made, the reason why no offer has been made;
- (f) a survey conducted by a surveyor licensed under the *Land Surveyors Act, 1991*, or other description of the land that is to be expropriated, in form and content satisfactory to the expropriating authority;
- (g) either
 - (i) a copy of an appraisal of the land, or
 - (ii) an affidavit of an officer of the proponent respecting an alternative method of valuation of the land;
- (h) a title search of the land to be expropriated, in form and content satisfactory to the expropriating authority, that details a registered security interest in the land concerned; and
- (i) the results of a search of the Judgment Enforcement Registry, or where the results are not attached, an explanation satisfactory to the expropriating authority as to why the information is not attached.

(3) Where a request is made to expropriate land, the expropriating authority shall determine whether the requirements of section 4 have been met.

(4) A proponent shall pay the costs of an appraisal required under this section and shall deliver a copy of it to the landowner, where known.

(5) An appraisal shall be carried out by a qualified independent appraiser who

- (a) is accredited by the Appraisal Institute of Canada; and
- (b) has earned the designation of Accredited Appraiser Canadian Institute, AACI.

Request does not
meet requirements

6. Where, in the opinion of the expropriating authority, an application for expropriation does not meet the requirements of the Act and these regulations, the expropriating authority may

- (a) reject the request; or
- (b) request that a proponent provide further information respecting a proponent's request to expropriate land, and consider the request in light of that additional information and decide upon it.

Notice of expropriation

7. (1) Where the expropriating authority is satisfied that a proponent has met the requirements of the Act and these regulations, the expropriating authority shall issue a notice of expropriation containing the provisions required in the Schedule.

(2) A notice of expropriation referred to in subsection (1) may authorize, on behalf of the proponent, the expropriation of

- (a) the land as described in the application of the proponent;
- (b) a greater or lesser portion of the land than that which was described in the application of the proponent; or
- (c) a different interest or an additional interest in land than that which was described in the application of the proponent.

(3) The expropriating authority shall direct that the proponent, on behalf of the expropriating authority,

- (a) post a copy of the notice of expropriation on the land concerned; and
- (b) either
 - (i) serve a copy of the notice of expropriation on a known landowner or person with an interest in the land, or

(ii) where a landowner or person with an interest in the land is not known, publish a copy of the notice of expropriation in a newspaper in general circulation in the province.

(4) Service required under subparagraph (3)(b)(i) shall be completed in the manner directed by the expropriating authority.

(5) Proof of posting and of service or publication under subsection (3) shall be by an affidavit in form and content acceptable to the expropriating authority, and that affidavit shall be completed by the proponent and attached to the notice of expropriation.

(6) In accordance with section 21 of the Act, title to the land vests in the proponent 10 days after the posting of the copy of the notice of expropriation under paragraph (3)(a) or the service or publication under paragraph (3)(b), whichever is earlier.

(7) The notice of expropriation and the affidavit referred to in subsection (5) shall be registered in the Registry of Deeds by the proponent on behalf of the expropriating authority.

Re-application

8. Where the expropriating authority rejects a proponent's request to expropriate land, that rejection does not preclude the applicant from submitting a further application for the expropriation of

(a) a different portion of that land or a different interest in that land; or

(b) the same land, on the basis of different evidence.

Notice of abandonment

9. (1) An application to abandon land under section 27 of the Act shall include the reasons that the proponent wishes to abandon the land.

(2) The expropriating authority, in response to a request made under subsection (1), may reject that request or issue a notice of abandonment.

(3) A copy of the notice of abandonment shall be posted and served or published as if it were a copy of the notice of expropriation under subsections 7(3) to (5).

(4) A notice of abandonment and the required affidavit shall be registered in the Registry of Deeds by the proponent on behalf of the expropriating authority.

Further expropria-
tion

10. Where a proponent determines that it requires a greater portion of land or a different interest in land than that which is referred to in a notice of expropriation, the proponent shall make a new application to the expropriating authority for expropriation under section 5 or section 11, as appropriate.

Application for
expropriation on an
urgent basis

11. (1) Where a proponent determines that land is urgently required for the purpose of the Muskrat Falls Project, the proponent may make an application under section 13 of the Act to the expropriating authority for an order of the Lieutenant-Governor in Council authorizing that expropriation.

(2) An application for expropriation under this section shall be in the prescribed form and shall include the following information:

- (a) a general description of the land to be expropriated, including the nature of the interest to be expropriated;
- (b) a declaration of an officer of the proponent that the land to be expropriated is, in the opinion of the proponent, necessary for the Muskrat Falls Project;
- (c) the identity of any person claiming to have an interest in the land to be expropriated, if known;
- (d) the details of negotiations which have been undertaken with respect to acquisition by the proponent of the land to be expropriated, if any, and any offer which the proponent has made to any person or, where no offer has been made, the reason why no offer has been made;
- (e) a survey conducted by a surveyor licensed under the *Land Surveyors Act, 1991*, or other description of the land to be expropriated, in form and content satisfactory to the expropriating authority;
- (f) either
 - (i) a copy of an appraisal of the land, or

- (ii) an affidavit of an officer of the proponent respecting an alternative method of valuation of the land;
 - (g) a title search of the land to be expropriated, in form and content satisfactory to the expropriating authority, that details a registered security interest in the land concerned; and
 - (h) the results of a search of the Judgment Enforcement Registry, or where results are not attached, an explanation satisfactory to the expropriating authority as to why the information is not attached.
- (3) Subsections 5(4) and (5) apply to an appraisal under this section.

Approval of expropriation by Lieutenant-Governor in Council

12. (1) Where the expropriating authority receives an application under section **11**, the expropriating authority shall immediately forward that application to the Lieutenant-Governor in Council for consideration.

(2) The Lieutenant-Governor in Council shall consider that application and may, by order, do some or all of the following:

- (a) approve the application, including the terms and conditions the Lieutenant-Governor in Council may impose, and authorize the expropriation of
 - (i) the land as described in the application of the proponent,
 - (ii) a greater or lesser portion of the land than that which was described in the application of the proponent, or
 - (iii) a different interest or an additional interest in the land than that which was described in the application of the proponent; or
- (b) reject the application.

(3) Where, under the authority of section 13 of the Act, the Lieutenant-Governor in Council issues an order directing the expropriating authority to issue a notice of expropriation,

- (a) the expropriating authority shall issue a notice of expropriation in the prescribed form containing the information required in the Schedule; and
- (b) the proponent shall provide the landowner with the following
 - (i) a copy of the appraisal or the affidavit respecting the method of valuation used by the proponent in determining the compensation for the land to be expropriated which was submitted under section **11**, and
 - (ii) a copy of the survey or other description of the land to be expropriated which was submitted under section **11**.

(4) A copy of the notice of expropriation under this section shall be posted and served or published by the proponent as if it were a copy of a notice of expropriation under subsections **7(3)** to (5).

(5) In accordance with subsection 13(3) of the Act, title to the land vests in the proponent 7 days after the posting of the copy of the notice of expropriation and the service or publication as required by subsection (4), whichever is earlier.

(6) The notice of expropriation and the affidavit referred to in subsection (3) shall be registered in the Registry of Deeds by the proponent on behalf of the expropriating authority.

(7) Where, under section 13 of the Act, the Lieutenant-Governor in Council rejects an application of a proponent for an order to expropriate land, that rejection shall not preclude a proponent from making a further or subsequent application under either section 12 or 13 of the Act in respect of that land or a greater or lesser portion of that land or a different interest in it.

Register of expropriations

13. (1) The expropriating authority shall maintain a register of expropriations under the Act and these regulations in both paper and electronic formats.

(2) The following information shall be maintained in the register of expropriations:

- (a) the location of the land concerned;

- (b) the nature of the interest in land that was expropriated;
- (c) a copy of a notice of expropriation;
- (d) a copy of an affidavit of service;
- (e) a copy of a notice of abandonment, if there is one;
- (f) the identity of a party with an interest in that land, including a secured interest holder;
- (g) a copy of an order issued under the authority of section 13 of the Act by the Lieutenant-Governor in Council, if there is one, including any amendments to it;
- (h) where an agreement between parties respecting compensation has been reached, the date and particulars of that agreement, and details, including the amount paid and to whom, the dollar value of the agreement, the date the agreement was approved by the expropriating authority and a copy of the agreement or related release in executed form;
- (i) where a matter related to the expropriation of land has been referred to the arbitration panel by a party, the date of the referral, the identity of the persons appointed to the arbitration panel to hear a matter, details of an extension of time requested and granted or not granted under the Act in respect of the hearing of a matter, and the date and disposition of a matter by an arbitration panel, including a copy of the decision;
- (j) details of a payment made by a proponent to a landowner or claimant under an award of compensation, including any costs and interest awarded by the arbitration panel and a copy of the agreement or related release in executed form;
- (k) where an arbitration panel has referred a special case under section 25 of the Act, a copy as provided of all related documents, including a decision of the court in the matter;
- (l) a copy of a notice of application or appeal filed with a court with respect to an arbitration or a decision of the arbitration panel, including details of subsequent appeals related to the

same, and details of a decision of a court disposing of a matter; and

- (m) details of a payment made by a proponent to a trustee under section 33 of the Act, of the identity of that trustee, of a related court application and a report, as requested by the expropriating authority regarding the status of related court applications and of the disposition of money paid to a trustee.

(3) A proponent shall forward the information required under subsection (2) to the expropriating authority in electronic format, or in both paper and electronic format where requested by the expropriating authority, within 10 days of a proponent coming into possession of information or the occurrence of an event referenced.

(4) The expropriating authority shall forward a copy of every notice of expropriation and notice of abandonment registered in the register of expropriations to the arbitration panel.

(5) The arbitration panel and an arbitration tribunal may access a document registered in the register of expropriations for the purpose of exercising a power or performing a duty prescribed in the Act or these regulations.

(6) Failure to comply with a requirement of this section does not invalidate or otherwise affect an expropriation or an agreement respecting compensation related to it.

Value of compensation

14. (1) Where land is expropriated under the Act and these regulations, the parties may agree between them as to the value of the compensation owing to a landowner or a claimant at any time before an arbitration tribunal has made a determination on the matter.

(2) Notwithstanding subsection (1), an agreement respecting the value of compensation for expropriation under the Act and these regulations is not valid and enforceable unless first approved by the expropriating authority, in writing.

(3) Where the parties disagree on

- (a) the value of land expropriated and the amount of compensation to be paid for it; or

- (b) the value to be ascribed to a claim of detrimental affection to land and the amount of compensation to be paid for it,

the proponent, at the proponent's cost, shall obtain an appraisal of the value of the land or of the value of the detrimental affection to the land concerned, if one has not already been completed, and provide a copy of that appraisal to the landowner or claimant.

(4) Where, following receipt of the appraisal referred to in subsection (3), the parties do not agree on the value of the land or the value to be ascribed to a claim of detrimental affection to land,

- (a) the proponent, landowner or claimant may request a second appraisal by another appraiser of the requestor's choosing, the reasonable cost of which the proponent shall bear; and
- (b) a copy of that appraisal shall be provided by the requestor to the other parties.

(5) An appraisal under this section shall be completed by an appraiser referred to in subsection 5(5).

(6) Notwithstanding another provision of this section, the proponent shall bear the cost of no more than 2 appraisals of land or 2 appraisals of the value of detrimental affection to land where those appraisals concern the same land or the same claim of detrimental affection.

(7) Where an agreement cannot be reached under this section, the compensation to be paid, including any costs or interest related to it shall be determined in accordance with Part III.

(8) The arbitration tribunal shall consider in its determinations further to subsection (7) whether the proponent has dealt fairly and in good faith with the landowner or claimant.

PART III DETERMINATION OF COMPENSATION

Negotiated agree-
ment not precluded
by arbitration

15. (1) This Part governs the operations of the arbitration panel under the authority of the Act.

(2) Notwithstanding another provision of this Part, the parties may, at any time, negotiate an agreement as to compensation owing for or related to an expropriation under the Act and these regulations, whether or not a hearing under this Part has begun.

(3) Where an agreement referred to in subsection (2) is reached and that agreement is approved under paragraph 22(2)(a) of the Act, a proceeding under this Part is terminated.

Arbitration panel
established

16. (1) Under the authority of section 24 of the Act, there is appointed an arbitration panel for the purpose of determining compensation for or related to an expropriation under the Act.

(2) The Lieutenant-Governor in Council shall appoint one person as chairperson of the arbitration panel and one person as vice-chairperson of the arbitration panel.

(3) Persons appointed under subsection (2) shall be members in good standing under the *Law Society Act, 1999*.

(4) In the absence of the chairperson, the vice-chairperson has and may exercise the powers of the chairperson and shall perform his or her duties.

(5) The Lieutenant-Governor in Council shall appoint at least 10 persons, including the chairperson and vice-chairperson, who shall serve as members of the arbitration panel.

(6) A member of the arbitration panel shall serve for a period of 3 years and is eligible to be reappointed.

(7) Where a member of the arbitration panel resigns or, due to absence, incapacity or other cause, is unable to carry out his or her duties as a member, the Lieutenant-Governor in Council shall appoint a person in his or her place who shall serve for the remainder of the term of the member being replaced.

(8) The members of the arbitration panel shall be paid remuneration and expenses related to carrying out their duties at a rate set by the Lieutenant-Governor in Council.

(9) Notwithstanding subsection (6), a person continues to be and may serve as a member of the arbitration panel until he or she is reappointed or replaced.

(10) Notwithstanding subsection (6), of the members of the arbitration panel first appointed

(a) the chairperson shall be appointed for a term of 3 years; and

(b) the vice-chairperson shall be appointed for a term of 2 years

and are eligible for re-appointment.

Operation of arbitration panel and arbitration tribunal

17. (1) The arbitration panel shall govern its own procedure subject to this Part.

(2) The chairperson of the arbitration panel shall appoint, from among members of the arbitration panel, arbitration tribunals which shall conduct hearings respecting compensation for or related to an expropriation under the Act and these regulations.

(3) An arbitration tribunal shall at all times have as a member the chairperson or vice-chairperson of the arbitration panel.

(4) Hearings by arbitration tribunals may be contemporaneous.

(5) An arbitration tribunal has, in relation to the hearing or determination of a matter, all the powers that are or may be conferred upon a commission under the *Public Inquiries Act, 2006*.

(6) A decision of an arbitration tribunal shall be considered to be a decision of the arbitration panel.

Types of hearings

18. (1) A hearing may be oral, electronic or written.

(2) An arbitration tribunal shall determine the format, date and location of a hearing, and may consider the factors it determines are relevant in making that determination.

(3) Notwithstanding another provision of this section, where an arbitration tribunal receives direction under section 21 respecting the type of hearing required, it shall comply with that direction unless it is satisfied that there is good reason to vary it.

(4) A party may object to a determination under subsection (2) and an arbitration tribunal may decide upon the matter.

(5) Unless an arbitration tribunal otherwise directs, every application and reply shall be filed in writing with the arbitration tribunal, and the application and reply shall be verified by affidavit or statutory declaration of the party submitting it.

Commencement of
proceedings

19. (1) A matter may be referred to the arbitration panel by a party by filing an application with the arbitration panel in the prescribed form.

(2) An application shall be in writing and shall contain the information required by the arbitration panel.

(3) Where the arbitration panel receives a copy of a notice of expropriation in accordance with subsection 13(4) and a matter has not been referred to the arbitration panel within a period of time that the arbitration panel considers reasonable, the arbitration panel may require that the proponent provide the information respecting compensation further to the expropriation that the arbitration panel considers necessary in the circumstances to determine whether compensation should be paid in accordance with subsection 16(4) of the Act.

Notice

20. (1) Where the arbitration panel receives an application under section **19**,

(a) the chairperson shall designate an arbitration tribunal to hear and determine the matter; and

(b) the arbitration tribunal shall direct the applicant to serve the notice of that application to other affected parties or other persons the arbitration tribunal considers necessary within 10 days of having received the application.

(2) Notwithstanding subsection (1), where the arbitration tribunal considers it appropriate, the arbitration tribunal may itself serve the notice required by that subsection.

(3) The notice referred to in subsection (1) shall include the following information:

- (a) the time, date and type of hearing to be held by the arbitration tribunal;
- (b) a copy of the application; and
- (c) a copy of the information required to be contained in an application under section **5** or **11**, as appropriate.

(4) A copy of the notice referred to in subsection (2) shall also be given to the party making the application.

Pre-hearing conference

21. (1) Where a notice has been served under section **20**, an arbitration tribunal may direct the parties to appear in a pre-hearing conference to

- (a) identify the parties;
- (b) identify the issues in dispute;
- (c) vary the type of hearing or the date of the hearing;
- (d) agree to facts or other matters not in dispute;
- (e) identify the witnesses the parties propose to call;
- (f) estimate the number of days required for the hearing; and
- (g) discuss other related matters including procedural matters and the possibility of a settlement.

(2) The chairperson or vice-chairperson may, before the commencement of a pre-hearing conference, direct that the parties produce documents to the arbitration tribunal and the parties on those terms that the chairperson or vice-chairperson may direct.

(3) The chairperson or vice-chairperson shall preside over the pre-hearing conference.

(4) The person presiding over the pre-hearing conference may direct that it be held in person or by means of the telephone or other telecommunication or electronic device that permits all parties participating in the conference to communicate with each other.

- (5) The person presiding over the pre-hearing conference
 - (a) may vary the time, date or type of hearing to be held from that which was prescribed in the notice under section 20 and if so varied, shall provide a copy of the amended notice to the parties; and
 - (b) shall record all issues identified as being in dispute and any agreements which have been reached.

Response by parties **22.** A party to a hearing shall, within 10 days of receiving notice under subsection 20(1), file a response to that application in the manner required by the arbitration tribunal.

Hearing of applica-
tion **23.** (1) Within 21 days of receiving a response under section 22, the arbitration tribunal shall hear the application in the manner it has determined.

(2) An arbitration tribunal may, as it considers appropriate, admit visual evidence or written evidence or both in its consideration of an application.

Representation **24.** (1) A party may attend a hearing in person or through his or her representative or both a party and his or her representative may attend.

(2) A representative who is not legal counsel shall file with an arbitration tribunal a written confirmation of authorization to act for the party.

(3) Where a representative of a party changes, the party or his or her representative shall immediately notify the arbitration tribunal and the other parties.

(4) A notice given to a representative under this Part shall be considered to be a notice to the party for whom the representative acts.

Extension or reduc-
tion of time periods **25.** An arbitration tribunal may, on its own motion or upon an application by a party, extend or reduce a time period prescribed in this Part, or postpone or adjourn a hearing or consideration of a matter, subject to section 28 of the Act.

Confidential busi-
ness information **26.** Upon an application of a party, an arbitration tribunal may hold a hearing in private where the hearing may disclose confidential or sen-

sitive financial or commercial information and may further direct that any evidence of that nature be kept confidential.

Recording, amend-
ment or consolida-
tion of proceedings

27. (1) Proceedings by an arbitration tribunal shall be recorded electronically or in writing.

(2) An application or other document filed with the arbitration panel in connection with a proceeding under the Act may be amended by leave of the arbitration panel upon the terms and conditions that the arbitration panel may prescribe.

(3) The arbitration panel may, upon the terms that it considers necessary, direct that a matter or proceeding before the arbitration panel be consolidated with another matter or proceeding before the arbitration panel and it may issue the direction respecting the conduct of the consolidated proceeding that it considers advisable subject to section 28 of the Act.

Dismissal of appli-
cation

28. An arbitration tribunal may dismiss an application for compensation without holding a hearing where

(a) the arbitration tribunal is satisfied that it does not have jurisdiction to hear the application; or

(b) the arbitration tribunal finds that

(i) the reasons set out in the application do not support an arbitration under the Act and these regulations,

(ii) the application is not made in good faith, or is frivolous or vexatious,

(iii) the applicant did not make the required submissions to the arbitration tribunal, or

(iv) the applicant has persistently and without reasonable grounds commenced proceedings before an arbitration tribunal that constitute an abuse of process.

Costs

29. Costs shall be awarded in writing by an arbitration tribunal in accordance with section 30 of the Act.

Action barred

30. An action or other proceeding does not lie against the arbitration panel or a member of the arbitration panel or an arbitration tribunal or a member of an arbitration tribunal for anything done or omitted to be done in good faith in the course of exercising a power or carrying out a duty under the Act or these regulations.

Special case

31. Where an arbitration panel refers a special case in accordance with section 25 of the Act, a copy shall be served on the parties.

Appeal

32. (1) Where a party appeals a decision of the arbitration panel in accordance with the Act, a copy of the notice of appeal shall be served on the arbitration panel and the other parties to the proceeding.

(2) A decision referred to in subsection (1) shall include, in accordance with subsection 17(5), a decision of an arbitration tribunal.

PART IV PAYMENT INTO TRUST

Costs and interest

33. (1) Where a proponent places funds into trust in accordance with section 33 of the Act, the proponent shall

- (a) determine the trustee to whom funds may be entrusted; and
- (b) bear the costs of maintaining the trust.

(2) Costs of maintaining the trust shall not be deducted from the funds which have been placed into trust.

(3) Interest which accrues on funds paid into trust under section 33 of the Act shall be the property of the proponent maintaining the trust.

Payment into trust

34. (1) Where a proponent makes a payment into trust in accordance with section 33 of the Act, the proponent shall

- (a) immediately give notice of that payment to the expropriating authority, including full details of the amount paid and the reason for making that payment; and
- (b) provide the expropriating authority with a copy of a receipt from the trustee evidencing that payment.

(2) The trustee shall provide to the expropriating authority all information respecting the occurrence of the following within 7 days of the date of the occurrence:

- (a) where money is paid out to a person under section 36 of the Act;
- (b) where there is a refusal to pay money out to a person under section 36 of the Act;
- (c) where an application is made by a person under section 37 of the Act and of the outcome of it; and
- (d) where compensation is disposed of under section 44 of the Act or compensation and interest become the property of the proponent under section 46 of the Act.

**PART V
LAND USE AND PERMITTING**

Permit

35. (1) Unless otherwise specified, a permit issued by the minister under this Part may be a permit for use or development of land.

(2) A permit for the development of land under this Part includes the necessary use of that land for the purpose of that development.

(3) The minister may prescribe terms and conditions of a permit under this Part, which may include a requirement for access to the land by the minister or his or her designate for the purpose of determining compliance with the permit, the Act and these regulations.

Application

36. (1) An application for a permit under subsection 55(3) of the Act shall be made to the minister in the prescribed form.

(2) An applicant shall provide with his or her application those plans and specifications that the minister may require.

(3) The minister shall, on request, supply to every applicant a copy of the application form referred to in subsection (1) and a description of the plans, specifications and drawings required to be provided with the application.

Compatible use

37. (1) The minister, following consultation with the holder of the transmission corridor under subsection 55(4) of the Act, may grant either approval in principle or a permit if, after considering an application, the minister is satisfied that the proposed use or development conforms to the Act, these regulations and all other applicable provincial legislation, and the minister shall consider

- (a) the topography, physical condition, amenity and natural features of the land;
- (b) the provision or future provision of services;
- (c) the use or the proposed use of the land and the use or the proposed use of the land in the immediate vicinity;
- (d) the number, location, convenience and safety of accesses;
- (e) where a highway is proposed, the protection of the highway as a safe and convenient traffic way;
- (f) the impact on the transmission corridor or infrastructure;
- (g) the design, location and construction of the proposed development;
- (h) where water and sewage disposal is proposed, the adequacy of the method, and the suitability of the land for the type of water and sewage disposal proposed;
- (i) the adequacy and suitability of the methods proposed for the disposal of waste material, if required; and
- (j) the shape and size of each lot or parcel of land,

and shall consult with all government departments, agencies, officials and persons considered necessary with respect to these or other considerations.

(2) Where approval in principle is granted under these regulations, it shall

- (a) be subject to the subsequent approval by the minister of the details and conditions as may be listed in the approval in principle; and
 - (b) specify that a further application for approval of those details and conditions shall be received not later than one year from the grant of the approval in principle.
- (3) The minister may
- (a) attach to an approval in principle or a permit those conditions required to ensure that the proposed use or development is made suitable for the purpose it is intended to serve; and
 - (b) may permit the use or development for a limited time as considered necessary.

Permit for use

38. Where the minister issues a permit for use under this Part, the term of that permit shall be set by the minister but the permit may be cancelled in accordance with section 40.

Permit for development

39. (1) A permit for development is valid for a maximum period of 5 years provided that the development complies with the conditions stipulated in the permit.

(2) Failure of the permit holder to develop in accordance with the terms and conditions of the permit renders the permit null and void.

(3) Development shall be carried out in accordance with the plans submitted as part of the application, if any, and approved by the minister and any conditions attached to the permit, and any modifications to those plans after a permit has been issued shall be approved by the minister.

(4) Where a permit for development has been issued by the minister but

- (a) the development is abandoned by the permit holder;
- (b) the development is not fully executed according to the conditions of the permit; or

- (c) the permit is cancelled due to a contravention of it, or of the Act or these regulations,

or where a permit expires, the minister may order the permit holder to remove all buildings or erections above ground, to cover or fill all wells or excavations, landscape as may be necessary to prevent erosion and to remove all accesses, or to do any of these things or other things which the minister may determine necessary in the circumstances, and the permit holder shall carry out the order of the minister and shall put the site in a clean and sanitary condition to the satisfaction of the minister.

(5) Where development has been completed in accordance with a permit for development under this section, that permit for development shall, without further application by the permit holder, be considered to be a permit for use under this Part.

(6) Notwithstanding subsection (5), the minister may, in his or her discretion, require a permit holder to apply for a permit for use under this Part where the minister considers it appropriate in the circumstances.

Cancellation of
permit

40. Notwithstanding another provision of this Part, the minister may cancel a permit where

- (a) the use or development is no longer consistent with the original approval;
- (b) there is a failure by the holder to comply with the Act; these regulations or any terms and conditions attached to the permit; or
- (c) the minister determines that the development or use unnecessarily interferes with the use of the transmission corridor by the permit holder.

Prior development

41. Nothing in these regulations shall apply to prevent the minister from issuing a permit in accordance with Part IV of the Act, provided that

- (a) use or development was commenced before the application of these regulations; and

(b) development is completed within a reasonable time after commencement.

Other prescribed
purposes

42. A person may apply for a permit in accordance with paragraph 55(3)(c) of the Act for one or more of the following purposes:

- (a) commercial use;
- (b) agricultural use;
- (c) personal use; or
- (d) any other use approved by the minister.

Repeal

43. The *Expropriation Negotiation and Application Regulations, Newfoundland and Labrador Regulation 58/13*, are repealed.

Schedule

Notice of Expropriation

The following provisions are required to be contained in every notice of expropriation:

1. A reference to the statutory authority under which the expropriation is occurring, including the section of the Act.
2. A description of the land to be expropriated in the form of a survey or other description acceptable to the minister.
3. A statement or description of the nature of the interest being expropriated in the land concerned.
4. A statement as to the period of time that must pass before title to the expropriated land will vest in the proponent for whom it is being expropriated.
5. The name and address of the proponent for whom it is being expropriated.
6. A statement that a person claiming to have an interest in land expropriated or detrimentally affected should submit details of that person's claim for compensation, of the estate or interest being claimed in the lands expropriated or detrimentally affected and of every charge, lien or encumbrance that the person is aware of to which the lands concerned are subject and documents in that person's possession or available to that person related to that information to the named proponent at the proponent's stated address by the date set out in the notice of expropriation.
7. The signature of the minister responsible for effecting the expropriation concerned.
8. A statement describing how an application may be made to the arbitration panel in the absence of an agreement respecting compensation.
9. A statement indicating that if no application is made to the arbitration panel, in the absence of an agreement respecting

compensation, the arbitration panel may determine compensation under the authority of section 16 of the Act.

©Queen's Printer

Index

PART I

Credit Union Act, 2009 – Notice	532
Lands Act – Notice	532
Mechanics’ Lien Act – Notice	532
Quieting of Titles Act – Notice.....	533
Trustee Act – Notices	535
Urban and Rural Planning Act, 2000 – Notice	531

PART II

CONTINUING INDEX OF SUBORDINATE LEGISLATION

Title of Act and Subordinate Legislation made thereunder	CNLR or NL Reg.	Amendment	NL Gazette Date & Page No.
An Act to Amend the Electrical Power Control Act, 1994 the Energy Corporation Act and the Hydro Corporation Act			
Proclamation bringing Act into force (In Force Nov. 29/13)	NLR 118/13	New Extraordinary Gazette Nov. 29/13	Dec. 6/13 p. 771
Electrical Power Control Act, 1994 and the Public Utilities Act			
Maritime Link Exemption Order	NLR 119/13	New Extraordinary Gazette Nov. 29/13	Dec. 6/13 p. 775
Correction Notice			Dec. 6/13 p. 773
Muskrat Falls Project Exemption Order	NLR 120/13	New Extraordinary Gazette Nov. 29/13	Dec. 6/13 p. 781
Muskrat Falls Project Land Use and Expropriation Act			
Muskrat Falls Project Land Use and Expropriation Regulations	NLR 121/13	New Extraordinary Gazette Nov. 29/13	Dec. 6/13 p. 787

The Newfoundland and Labrador Gazette is published from the Office of the Queen's Printer.

Copy for publication must be received by **Friday, 4:30 p.m.**, seven days before publication date to ensure inclusion in next issue.

Advertisements must be submitted in either PDF format or as a MSWord file. When this is not possible, advertisements must be either typewritten or printed legibly, separate from covering letter. Number of insertions required must be stated and the names of all signing officers typewritten or printed.

Copy may be mailed to the address below, faxed to (709) 729-1900 or emailed to queensprinter@gov.nl.ca.

Advertising rates are available upon request. Subscription rate for *The Newfoundland and Labrador Gazette* is \$125.00 for 52 weeks plus applicable tax (\$131.25). Weekly issues of \$3.00 per copy, plus tax payable in advance.

All cheques, money orders, etc., should be made payable to THE NEWFOUNDLAND EXCHEQUER ACCOUNT and all correspondence should be addressed to: Office of the Queen's Printer, P. O. Box 8700, Ground Floor, East Block, Confederation Building, St. John's, NL A1B 4J6. Telephone (709) 729-3649. Fax: (709) 729-1900.

Web Site: <http://www.servicenl.gov.nl.ca/printer/index.html>

**Place your order by contacting:
Office of the Queen's Printer
Confederation Building, East Block
St. John's, NL A1B 4J6
Telephone: (709) 729-3649 Fax: (709) 729-1900
email: queensprinter@gov.nl.ca**

**Government Information Product
Publication Rate Mail
G.S.T. # R107442683**

All requests for Subscription and Legislation MUST be prepaid.