

Subject: **EXPROPRIATION - FEDERAL**

## BACKGROUND

Her Majesty the Queen in the right of Canada is empowered to expropriate for a public work or other public purpose (1) including any land or interest in land which belongs to Her Majesty the Queen in right of Alberta. (2) The procedure is similar to the procedure followed under the Alberta Expropriation Act.

A railway company as defined in section 87 of the Canada Transportation Act, S.C. 1996, may request the Minister of Transport to have the interest in land expropriated by the Crown. Any reference to the Crown in the notice of intention to expropriate and notice of confirmation of intention is construed as a reference to the railway company. (3)

## REGISTRATION PROCEDURE

1. **Notice of Intention to Expropriate** - For the federal Crown to expropriate any interest in land, a notice of intention to expropriate giving:
  - a) a description of the land,
  - b) the nature of the interest intended to be expropriated and whether such interest is intended to be subject to any existing interest in the land,
  - c) an indication of the public work or other public purpose for which the interest is required, and
  - d) a statement that it is intended that the interest be expropriated by the Crown must be registered. (4) It must be signed by the Minister of Public Works and Government Services or the Deputy Minister of Public Works and Government Services (5) and must be accompanied by a plan of the land to which the notice relates. A corrected notice or plan may be registered if the original notice or plan contains an omission, mis-statement or erroneous description. It is deemed to relate back to the day the original notice or plan was registered. (6)

Tariff item 11(6) is charged for the registration of the notice and Tariff item 13 is charged for each endorsement after the first.

2. **Notice of Confirmation of Intention** - Where a notice of intention to expropriate has been registered, the Minister may either confirm the intention to expropriate by registering a notice of confirmation of intention or register a notice of abandonment of the intention. (7)

The notice of confirmation of intention to expropriate must state that:

- a) the interest is the same as set forth in the notice of intention to expropriate and confirm the notice, or

b) the interest is of a more limited nature than set forth in the notice of intention to expropriate and confirm the notice as to the more limited interest.

It must be signed by either the Minister or Deputy Minister of Public Works and Government Services (8) and be registered within 120 days from the day notice of intention to expropriate was published in the Canada Gazette. (9) Proof of the date must accompany the notice of confirmation or must be stated in the document. If a notice of confirmation is not so registered, the notice of intention to expropriate is deemed to be abandoned and a notice of abandonment signed by the Minister or Deputy Minister of Public Works and Government Services is required to be registered. (10) If the notice of confirmation of intention to expropriate is registered in respect of a more limited interest than was stated in the notice of intention to expropriate, it is deemed that the notice of intention to expropriate is abandoned in respect of the remainder. (11)

Once the notice of confirmation is registered, the interest stated in the notice of confirmation is absolutely vested in the Crown, and any other right, estate or interest is as against the Crown or any person claiming through or under the Crown, lost to the extent that such right, estate or interest is inconsistent with the interest confirmed to be expropriated. (12)

The procedure for endorsement, cancellation and issuance of title is the same as for provincial expropriations (see procedure under EXP-1).

3. **Revesting of Expropriated Interest** - The Minister (13) may register a notice of abandonment of an expropriated interest advising of the abandonment in respect of all or part of an expropriated interest. (14) The interest then reverts in the person from who it was expropriated or the persons entitled to claim through or under them or to those persons subject to the more limited interest retained by the Crown. (15) If a certificate of title was issued, it is cancelled and a new certificate of title is issued using the registration number of the notice of abandonment. If appropriate, a consolidation of the new certificate of title with the existing certificate of title for the adjacent land may be requested (see procedure under CON-1). If no certificate of title was issued, the memorandum of the expropriated interest is wholly or partially discharged using the registration number of the notice of abandonment.

Tariff item 11(6) is charged for the registration of the notice and Tariff item 13 is charged for each endorsement after the first. If the registration results in the change or amendment of the registered ownership or parcel description in the certificate of title, Tariff item 11(4) is charged for the first title affected and Tariff item 12 for each certificate of title affected after the first.

## STATUTE AND CASE REFERENCES

Statute references are to the federal Expropriation Act, R.S.C. 1985, c. E-21, unless otherwise indicated.

1. s. 4(1)
2. s. 6(4)
3. s. 4.1
4. s. 5
5. s. 2(a) defines "Minister" as: "in relation to the provisions of this Act other than Part II, means the Minister of Public Works and Government Services or, for such periods and in relation to such matters to which the powers, duties and functions of the Minister under this Act extend as may be specified from time to time in any instrument of delegation signed by the Minister of Public Works and Government Services and published in the Canada Gazette, such other Minister described in paragraph (b) as is named in such instrument," (NOTE: Part I is with respect to the Expropriation procedure and Part II is with respect to the use of lands.); s. 24(2), Interpretation Act, R.S.C. 1985, c. I-23
6. s. 6
7. s. 11
8. s. 2(a) defines "Minister" as: "in relation to the provisions of this Act other than Part II, means the Minister of Public Works and Government Services or, for such periods and in relation to such matters to which the powers, duties and functions of the Minister under this Act extend as may be specified from time to time in any instrument of delegation signed by the Minister of Public Works and Government Services and published in the Canada Gazette, such other Minister described in paragraph (b) as is named in such instrument," (NOTE: Part I is with respect to the Expropriation procedure and Part II is with respect to the use of lands.); s. 24(2), Interpretation Act, R.S.C. 1985, c. I-23
9. s. 11
10. s. 12
11. s. 12
12. s. 15
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14. s. 20
15. s. 21